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(Nova
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[Nova Scotia]

SUBMISSION

BY

THE GOVERNMENT OF THE PROVINCE
OF NOVA SCOTIA

TO THE

ROYAL COMMISSION ON
DOMINION-PROVINCIAL RELATIONS

FEBRUARY • 1938

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Presented by

HON. ANGUS L. MACDONALD, K. C.,
Premier.

HON. J. H. MACQUARRIE, K. C.,
Attorney-General.

Constitutional

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PART I.

INTRODUCTORY.

In considering Nova Scotia's relationship to the Dominion as a whole, it is important to bear in mind that of all the Provinces of Canada Nova Scotia has the oldest civilization and the longest existence as a political unit. For more than one hundred years before Confederation Nova Scotia had an Assembly of its own. For over a century and a half prior to 1867 this Province was a distinct community under the British Crown. It is not a matter for wonderment, therefore, that the traditions and the loyalties engendered in this long period of separate existence should create in this Province a distinct consciousness and sense of independence. These sentiments have never been wholly superseded by the larger idea of Confederation. Nova Scotians, to a larger extent, perhaps, than the people of most of the other Provinces, cherish a double loyalty—apart, of course, from their undoubted loyalty to the Throne and Empire—a loyalty to their own Province and a loyalty to the Dominion as a whole.

That there is ground and justification for this double loyalty is abundantly clear from a consideration of the position of the Province as a member of Confederation. Nova Scotia did not cease to be a separate political entity when it became a Province of the Dominion. It retained certain powers and it gave up certain rights, but it never lost its political identity. Nor, indeed, was it ever intended that any of the Provinces should lose their political existence. As was pointed out by the Privy Council in *Liquidators of the American Bank of Canada vs. Receiver General of New Brunswick*, 1892, Appeal Cases, page 437—the federation of Provinces did not effect the extinction of provincial autonomy. Rather as the Privy Council said—

“The object of the Act was neither to weld the provinces into one nor to subordinate provincial governments to a central authority, but to create a federal government in which they should all be represented, entrusted with the exclusive administration of affairs in which they had a common interest, each province retaining its independence and autonomy.”

The same idea has been expressed in non-legal but glowing language by Lord Bryce in his great work "The American Commonwealth"—

"The central or national government and the State governments may be compared to a large building and a set of smaller buildings standing on the same ground, yet distinct from each other. It is a combination sometimes seen where a great church has been erected over more ancient homes of worship. First the soil is covered by a number of small shrines and chapels, built at different times and in different styles of architecture, each complete in itself. Then over them and including them all in its spacious fabric there is reared a new pile with its own loftier roof, its own walls, which may perhaps rest on and incorporate the walls of the older shrines, its own internal plan. The identity of the earlier buildings has however not been obliterated; and if the later and larger structure were to disappear, a little repair would enable them to keep out wind and weather, and be again what they once were, distinct and separate entities."

The phase of Federalism referred to in the extracts just quoted is, we believe, one that has constantly to be kept in mind in any investigation of problems arising out of the relation between a Federal Government and the governments of states or provinces. These problems can be successfully solved when, and only when, the central government has regard to the principle that its policies should maintain the identity of the component parts of the federation. Indeed, as was said in the introductory statement before the Jones Commission in 1934—

"A federation defeats its primary purpose if, through its constitutional arrangements or by policies instituted by the national government, it accomplishes the debilitation of one or more of the political communities of which it is composed."

It is not without significance that the first important discussion of the federation of the British North Americas in any colonial legislature was held in the Nova Scotia Assembly in the Session of 1854 upon a motion made by the Honourable James W. Johnstone, then Leader of the Opposition. Sixteen years earlier in this very Chamber Mr. Johnstone, then a Member of the Legislative Council of this Province, on his return from a conference with Lord Durham at Quebec, had advocated Canadian Union. In Mr. Johnstone's resolution of 1854 it was declared "that the union or confederation of the British Provinces on just principles, while calculated to perpetuate their connection with the parent state, will promote their advancement and prosperity, increase their strength and influence, and elevate their position", and it went on to request the Lieutenant Governor to communicate with the governments of the other Provinces and with the Imperial Government respecting the proposal. On the following day, Howe, then a member

of the Nova Scotia Government, spoke to the resolution, declaring that it opened up "the broadest field, the noblest subject ever presented to the consideration of this Legislature" and that "North America must ere long claim consolidation into the realm of England." It is common knowledge that from this time onwards until Confederation was accomplished, the question of union in some form was discussed in all the Provinces. Maritime Union, Legislative Union, Federal Union—all these were made the topics of public and private discussion.

It is useless to deny that many Nova Scotians in the years immediately prior to 1867 felt that, unless the terms of union were carefully drawn, the result might be disadvantageous to this Province. Thus, in 1861, the Nova Scotia House of Assembly adopted without debate a resolution which declared that, while many advantages might be secured by a union of the North American Provinces or of the Maritime Provinces, there were many and serious obstacles to such a union, which could only be overcome by mutual consultation of the leading men of the colonies and by free communication with the Imperial Government. It should be noted, however, that in the Debates in the Legislature, in newspaper and other discussions, in the petitions presented to the Legislature of Nova Scotia and to the British House of Commons by citizens of this Province, the objections that were taken were not to the principle of confederation, but rather to the terms on which it was to be accomplished and to the refusal to submit the question to the opinion of the people at an election. Unfortunately, the fears of many Nova Scotians as to the economic effects of Confederation proved to be true. It was pointed out by the Government of Nova Scotia within a year after the passing of the British North America Act that the terms of Confederation bore heavily on this Province, that the new Federal tariff was considerably higher than that to which Nova Scotians were accustomed, that the commercial life of the Province was prejudicially affected, that the financial grants to Nova Scotia from the Federal Government were inadequate, and a delegation from Nova Scotia went to London in 1868 to seek repeal of the British North America Act in its application to this Province. A resolution to this effect was moved in the House by John Bright, M. P., but it was defeated. Nevertheless, the Secretary of State for the Colonies, the Duke of Buckingham and Chandos, in the same year, addressed a letter to the Governor General of Canada, pointing out that Her Majesty's Government was confident that the Parliament of the Dominion would relax or modify any arrangements on the subjects of taxation, the regulation of trade, and the fisheries, which might prejudice the peculiar interests of Nova Scotia and the Maritime portion of the Dominion. Within a year some slight improvement from Nova Scotia's viewpoint had been made in the financial relations with the Dominion by means of a special subsidy for a period of ten years and a revision of the debt settlement between the Dominion and the Provinces. It may be taken as unfortunate that the negotia-

tions of 1869 for better terms dealt only with financial arrangements and failed to consider such important matters as the effect of the Canadian tariff and the position of the Nova Scotia fisheries. The arrangement of 1869, undoubtedly, created in certain minds a feeling that complaints from the Provinces could always be mollified by increased money grants. The endeavour will be made later on in this submission to show that money grants are not at all a substitute for impaired economic conditions, and that while additional subsidies or other forms of monetary assistance may help a government to improve its own financial position, they leave untouched the underlying question of the economic welfare of the people of the Province.

Nova Scotians objected strenuously, not so much to the fact or to the principle of Confederation as to the terms of the British North America Act, and the results of seventy years have shown, we believe, that their objections were justified. It is not yet too late to have the arrangements made at Confederation modified under the light of the experience of seventy years. For our part, we desire now, as we have always desired, to play our full part in the development of Canada and of the British Commonwealth of Nations and in strengthening the bonds between this Dominion and the rest of the Empire. We are eager to see a happy Dominion, but we believe in the words of the Premier of Quebec at the Dominion Provincial Conference of 1927 that "to have a happy and prosperous Canada there must be happy and prosperous provinces."

In the representations which we shall make to this Commission we shall endeavour to bear in mind our responsibilities both to Nova Scotia and to Canada, and we shall endeavour to base our suggestions upon principles of reason and fairness to ourselves, to other provinces and to the Dominion as a whole.

We trust that, as a result of the conclusions to which you shall come on the facts disclosed by your investigations, the relations between the Provinces and the Dominion will be more closely harmonized, and that not only may the interests of all the component parts of our Federal system be conserved and brought into proper balance with national needs and the promotion of national unity, but that the results of your labours will, in the words of the minute of the Privy Council authorizing your appointment, "best effect a balanced relationship between the financial powers and the obligations and functions of each governing body, and conduce to a more efficient, independent and economical discharge of governmental responsibilities in Canada."

As to the method of presenting our submission we have felt it better to give at first a general outline of our case. We shall suggest, first, certain constitutional changes, some of which we think are immediately

necessary, and some of which may be left for later consideration. We shall then suggest certain changes in the financial relationship between the Dominion and this Province.

The constitutional amendments which we think should be recommended by this Commission are the following:—

1. An amendment to the British North America Act giving to the Canadian Parliament and to the Provincial Legislatures the power to amend, by joint action, the British North America Act. We feel that the details of the method of amendment should be agreed upon at a Dominion-Provincial Conference summoned for that purpose.

2. An amendment providing for the transfer by the Dominion to the Provinces of a matter or subject otherwise within exclusive Dominion jurisdiction, and vice versa.

3. An amendment providing for the establishment of a Federal Grants Commission, modelled somewhat along the lines of the Commonwealth Grants Commission in Australia, to consider and report upon applications from the Provinces for special grants or subsidies.

4. An amendment giving the Dominion Parliament exclusive jurisdiction over the subject of marketing.

5. An amendment which would remove any doubt as to the power of the Provinces to impose certain taxes now collected by them, and partaking of the nature of sales tax, e. g., the gasoline tax.

6. An amendment giving to the Dominion full financial responsibility for old age pensions and mothers' allowances.

7. An amendment, if an amendment is necessary, (otherwise, a recommendation to the Provinces and to the Dominion) providing for a conference to be held at a fixed time in each year between representatives of the Provinces and representatives of the Dominion.

8. An amendment giving to the Dominion Parliament exclusive jurisdiction over the matters of unemployment insurance, employment service, maximum hours of labour, weekly rest, and allied matters. This recommendation is made on the condition that ample provision will be made for the full protection of local and particular interests, either by the appointment of Provincial Boards, or, at any rate, of regional Boards for, say, the Maritime Provinces.

9. An amendment giving to the Dominion Parliament exclusive and effective jurisdiction to impose succession and death duties and income tax, if mutually satisfactory arrangements in this regard can be reached between the Provinces and the Dominion.

With regard to Dominion-Provincial financial relations we shall argue that the fiscal need of the Provinces should be, and, in fact, has been the dominant factor in determining the amount of Dominion subsidies during the past seventy years.

We shall then trace the effect of the operation of certain Federal policies, notably trade and tariff policies and railway rates, upon the economic life of Nova Scotia. We shall endeavour to show that these policies have borne heavily upon us, and have lowered the taxable capacity of the Province. We shall contend that it should be the aim of the Federal Government to frame its policies so as to give equality of opportunity to all people within the federation. Where this end cannot be completely attained, the granting of a subsidy to the Provincial Government would seem to be the next best course, though we realize that subsidies will be inadequate compensation for the harmful effect of Federal policies.

We shall compare our taxable capacity with that of other provinces and of the Dominion as a whole, and show that, judged by almost every test, our people are less able to pay taxes than the people of other parts of Canada.

Finally, we shall point out what the fiscal need of Nova Scotia is today, our estimate being based on the constitutional changes suggested, and on the proper expansion of existing or imperative government services, notably in the fields of education, public health, social services, agriculture and fisheries.

PART II
CONSTITUTIONAL

CHAPTER 1

INTRODUCTORY

Propositions Relating to Proposed Amendments of the British North America Act, 1867

Purpose

The purpose of this Part of the Submission of the Province of Nova Scotia is to propose amendments of the British North America Act, 1867, in specific instances, a number of which will affect the distribution of powers between the Dominion and the Provinces; to indicate, in so far as is necessary for a clear understanding of the reason for and effect of such amendments, the existing situation as to jurisdiction to deal with the matters involved; and to treat of such other topics as are necessarily incidental to the foregoing.

Introduction

The Dominion of Canada was established by an Act of the Imperial Parliament, the British North America Act, 1867. The circumstances leading up to the passing of the Act will not be dealt with here. To consider such circumstances; to examine pre-Confederation speeches and documents to try to discover the intentions of the Fathers and Authors of Confederation in respect of the matters now to be referred to; to inquire whether the intentions of the Fathers and Authors of Confederation were adequately expressed in the Act and whether the Sections of the Act have from time to time been truly interpreted by the members of the Privy Council; these are all of far more than mere historic interest. They are of importance e. g., to indicate the contrast between that which the members or particular

members of the Dominion expected from Confederation and that which they received; they are important and necessary to provide a background of understanding of the origins and omissions of the Act which it is necessary to amend: they are necessary to demonstrate that certain of the Provinces are not merely facing the natural consequences of an undertaking, the ramifications of which must be taken to have been present to the minds of all the parties thereto when they entered into it.

For the purposes of these proposed amendments however, the situation as it exists in respect of the distribution of powers between Provinces and Dominion must be taken and the processes by which it was reached, except as they contribute to an understanding of the situation itself or point out lessons for the future, may be disregarded. In other words, the situation has crystallized, and it is with the situation as it exists and not as it might have existed that we are concerned.

The intention behind the British North America Act, 1867, was that there should be a General Government charged with matters of common interest to the whole country, and Local Governments for each of the Canadas, and for the Provinces of Nova Scotia and New Brunswick, charged with the control of local matters in their respective sections, and general distribution of powers between the Dominion Parliament and the Provincial Legislatures was effected by Sections 91 and 92 which are here set out *in toto*:

"91. It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons, to make laws for the Peace, Order, and good Government of Canada in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces, and for greater Certainty, but not so as to restrict the Generality of the foregoing Terms of this Section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,—

1. The Public Debt and Property.
2. The Regulation of Trade and Commerce.
3. The raising of Money by any Mode or System of taxation.
4. The borrowing of Money on the Public Credit.
5. Postal Service.

6. The Census and Statistics.
7. Militia, Military and Naval Service, and Defence.
8. The fixing of and providing for the Salaries and Allowances of Civil and other Officers of the Government of Canada.
9. Beacons, Buoys, Lighthouses, and Sable Island.
10. Navigation and Shipping.
11. Quarantine and the Establishment and Maintenance of Marine Hospitals.
12. Seacoast and Inland Fisheries.
13. Ferries between a Province and any British or Foreign Country or between Two Provinces.
14. Currency and Coinage.
15. Banking, Incorporation of Banks, and the Issue of Paper Money.
16. Savings Banks.
17. Weights and Measures.
18. Bills of Exchange and Promissory Notes.
19. Interest.
20. Legal Tender.
21. Bankruptcy and Insolvency.
22. Patents of Invention and Discovery.
23. Copyrights.
24. Indians, and Lands reserved for the Indians.
25. Naturalization and Aliens.
26. Marriage and Divorce.

27. The Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters.
28. The Establishment, Maintenance, and Management of Penitentiaries.
29. Such Classes of Subjects as are expressly excepted in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

And any matter coming within any of the Classes of Subjects enumerated in this Section shall not be deemed to come within the Class of Matters of a local or private Nature comprised in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

92. In each Province the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,—

1. The Amendment from Time to Time, notwithstanding anything in this Act, of the Constitution of the Province, except as regards the office of Lieutenant-Governor.
2. Direct Taxation within the Province in order to the Raising of a Revenue for Provincial Purposes.
3. The borrowing of Money on the sole Credit of the Province.
4. The Establishment and Tenure of Provincial Offices and the Appointment and Payment of Provincial Officers.
5. The Management and Sale of the Public Lands belonging to the Province and of the Timber and Wood thereon.
6. The Establishment, Maintenance, and Management of Public and Reformatory Prisons in and for the Province.
7. The Establishment, Maintenance, and Management of Hospitals, Asylums, Charities, and Eleemosynary Institutions in and for the Province, other than Marine Hospitals.
8. Municipal Institutions in the Province.

9. Shop, Saloon, Tavern, Auctioneer, and other Licenses in order to the raising of a Revenue for Provincial, Local, or Municipal Purposes.
10. Local Works and Undertakings other than such as are of the following Classes:—
 - (a) Lines of Steam or other Ships, Railways, Canals, Telegraphs, and other Works and Undertakings connecting the Province with any other or others of the Provinces, or extending beyond the Limits of the Province;
 - (b) Lines of Steam Ships between the Province and any British or Foreign Country;
 - (c) Such Works as, although wholly situate within the Province, are before or after their Execution declared by the Parliament of Canada to be for the general Advantage of Canada or for the Advantage of Two or more of the Provinces.
11. The Incorporation of Companies with Provincial Objects.
12. The Solemnization of Marriage in the Province.
13. Property and Civil Rights in the Province.
14. The Administration of Justice in the Province, including the Constitution, Maintenance, and Organization of Provincial Courts, both of Civil and of Criminal Jurisdiction, and including Procedure in Civil Matters in those Courts.
15. The Imposition of Punishment by Fine, Penalty, or Imprisonment for enforcing any Law of the Province made in relation to any Matter coming within any of the Classes of Subjects enumerated in this Section.
16. Generally all Matters of a merely local or private Nature in the Province.

Judicial interpretations upon these Sections are legion and it is not proposed to analyze them, although two of them at this stage warrant passing reference. The autonomy of the Provinces within the fields of legislation entrusted to them by Section 92 was early established in the case of *Hodge vs. The Queen* (1883) 9 Appeal Cases, page 117, when Sir Barnes Peacock, delivering the decision of the Privy Council, said at page 132:

"When the British North America Act enacted that there should be a legislature for Ontario, and that its legislative assembly should have exclusive authority to make laws for the Province and for provincial purposes in relation to the matters enumerated in sect. 92, it conferred powers not in any sense to be exercised by delegation from or as agents of the Imperial Parliament, but authority as plenary and as ample within the limits prescribed by sect. 92 as the Imperial Parliament in the plenitude of its power possessed and could bestow. Within these limits of subjects and area the local legislature is supreme, and has the same authority as the Imperial Parliament, or the Parliament of the Dominion, would have had under like circumstances to confide to a Municipal institution or body of its own creation authority to make by-laws or resolutions as to subjects specified in the enactment, and with the object of carrying the enactment into operation and effect."

Principles to govern the construing of Sections 91 and 92 have from time to time been laid down. The following propositions were stated by Lord Tomlin, who delivered the judgment of the Privy Council in the case of *Re Fisheries Act*, 1914, reported in 1930, 1 Dominion Law Reports, page 194 at page 196:

"1. The legislation of the Parliament of the Dominion, so long as it strictly relates to subjects of legislation expressly enumerated in s. 91, is of paramount authority even though it trenches upon matters assigned to the provincial legislature by s. 92.

(2) The general power of legislation conferred upon the Parliament of the Dominion by s. 91 of the Act in supplement of the power to legislate upon the subjects expressly enumerated must be strictly confined to such matters as are unquestionably of national interest and importance, and must not trench on any of the subjects enumerated in s. 92 as within the scope of provincial legislation unless these matters have attained such dimensions as to affect the body politic of the Dominion.

(3) It is within the competence of the Dominion Parliament to provide for matters which, though otherwise within the legislative competence of the provincial legislature, are necessarily incidental to effective legislation by the Parliament of the Dominion upon a subject of legislation expressly enumerated in s. 91.

(4) There can be a domain in which provincial and Dominion legislation may overlap in which case neither legislation will be ultra vires if the field is clear, but if the field is not clear and the two legislations meet the Dominion legislation must prevail."

These propositions were later cited by Lord Sankey in delivering the judgment of the Privy Council in the "Aeronautics Case", *Re Aerial Navigation, Attorney General, Canada vs. Attorney General, Ontario, et al.* 1932, 1 Dominion Law Reports, page 58 at page 66. The concluding words of the second proposition "unless these matters have attained such dimensions as to affect the body politic of the Dominion" should be read having in mind the "*locus classicus*" of the Chief Justice of Canada upon this point of the law (so described by Lord Atkin in *Attorney General, Canada vs. Attorney General, Ontario et al, Reference Re Weekly Rest in Industrial Undertakings Act, Minimum Wages Act and Limitation of Hours of Work Act*, 1937, 1 Dominion Law Reports, page 673 at page 683) which appears in 1936, 3 Dominion Law Reports, page 622 at page 633, (*Reference Re Natural Products Marketing Act*) and the effect of which may be said to be that not all the matters enumerated in Section 92 are capable of changing in aspect so as to come within the general words "for the Peace, Order, and good Government of Canada" in Section 91; that the standard of necessity required to be reached before one of such matters would so change in aspect is very very high; and that this standard is not attained simply because the legislation in issue is for the general advantage of Canada, or is such that it will meet a mere want which is felt throughout Canada, or because it seems important to the Parliament of Canada that the policy embodied in the legislation be made general throughout Canada.

Propositions

It is submitted that amendments should be made to the British North America Act in the following respects:

1. To give to the Dominion Parliament and the Provincial Legislatures the power to amend the British North America Act, 1867, according to a procedure to be determined by agreement between the Dominion and the Provinces.

2. To provide for the reference or delegation of legislative authority by the Provinces to the Dominion and *vice versa*.

3. To provide for the establishment of a Federal Grants Commission to receive, consider and report upon applications from the Provinces for special grants of subsidies.

4. To give the Parliament of the Dominion exclusive jurisdiction over the matter of marketing.

5. To remove any question as to the jurisdiction of the Provinces to impose taxes collected by the Provinces partaking of the nature of sales tax.

6. To provide for the Dominion to assume full financial responsibility for old age pensions and mothers' allowances.

And it is further submitted

7. That provision ought to be made, by way of amendment to the British North America Act or otherwise, for annual conferences to be held at a fixed time between representatives of the Provinces and representatives of the Dominion.

And the Province of Nova Scotia is willing

8. To concede to the transfer to the Parliament of the Dominion, subject to certain conditions, including ample provision being made for the full protection of local and particular interests, exclusive jurisdiction over the matters of unemployment insurance, employment service, maximum hours of labour, weekly rest, and allied matters.

9. To concede to the vesting in the Parliament of the Dominion of exclusive and effective jurisdiction to impose succession and death duties and income tax if a mutually satisfactory arrangement to this effect can be reached between the Provinces and the Dominion.

In an endeavour to give a concise but complete picture of the recommendations of the Province of Nova Scotia as to amendments of the British North America Act, the foregoing Propositions have been set forth in relief and they require to be elaborated upon. Before proceeding to this elaboration, it is deemed advisable to indicate a number of considerations that the foregoing enumeration evokes.

In the first place it will be observed that no general sweeping amendment of the Act has been suggested. On the contrary the proposed amendments are restricted to specific instances where the need of amendment has made itself apparent. This has been done deliberately, for it has been felt that amendments ought to be made, not wholesale or precipitately, but in particular cases as the circumstances demonstrate them to be required. By such a policy each step taken provides guidance for the next following step, and unexpected and unwished for ramifications of measures whose consequences were not clearly appreciated will to a large degree be avoided.

In the second place it will be observed that while three out of the nine Propositions relate to powers proposed to be transferred to the Dominion, with their attendant costs, the ninth Proposition is a proposal to transfer from the Province to the Dominion the levying, collecting and the beneficial use of succession and death duties and income tax. This concession is made from a realization that if the three proposals to transfer services to the Dominion are given effect to, they will involve an increase in Dominion expenditure and from a realization that in a number of respects the Dominion is able to administer such duties and tax more effectively, economically and uniformly throughout Canada than they can be administered by nine separate provincial authorities or, in the case of income tax, their municipal delegates.

In the third place while the specific instances in which amendments are considered necessary or acceptable have been indicated, it is not considered to be within the scope of this Submission to indicate the exact nature of the amendments themselves. Those are matters to which care and attention of a particular nature will have to be given if and when the desirability of the amendments has been recognized.

In the fourth place it is deemed desirable before going on to an elaboration of the matters of proposed amendment, to refer to one of the premises which underlie the whole of the Submission of this Province and which will be expounded in its various aspects in the following Part. It is that each Province is entitled, if its administration be economic, and its expenditures necessary and limited to subjects of provincial legislative competence and accepted governmental responsibility, to have at its disposal sufficient revenue, or the means of reasonably raising the same, to balance its budget in the absence of some extraordinary and temporary circumstances. This postulation, be it understood, refers only to the functioning of the Provincial Government and has no relation to the right of the people, as distinguished from the Government, to the opportunity of maintaining the standard of living normal throughout Canada, which will also be dealt with, at a later stage of the Submission. When it is taken into consideration that the residuum of the taxing power resides in the Dominion Parliament and in what measure the taxing power of the Provincial Legislatures has been restricted, whether by the provisions of the British North America Act, 1867, or the interpretations placed upon them by the Courts, the assumption of this premise will not, it is conceived, be deemed unreasonable. Whether in the case of this Province the conditions of competent administration of subjects within provincial competence and accepted government functions have been fulfilled, it will be the purpose of another Part of this Submission to demonstrate but it may be permissible to refer briefly in this regard to the *Report of the Royal Commission on Maritime Claims*, commonly referred to as the "Duncan Report", at page 16, where the Commissioners said about the Maritime Provinces:

"We are satisfied that they do recognize that provinces are expected to supplement their revenues from sources of their own, and that their present financial position does not arise from any misconception such as that provinces should be free to spend as they like and to look to the Government to meet the bill. A review of their financial operations over a long period suggests frugal expenditure."

And, finally, it is suggested that if an agreement can be reached upon the foregoing Propositions, excluding the Proposition as to providing a procedure for the amendment of the British North America Act in Canada, or upon the more pressing of these matters, then the matter of finding a satisfactory procedure for amendment of the Act in Canada could very well be postponed for the immediate future and for further consideration as to the nature of such procedure.

We come now to the examination and elaboration individually of the Propositions for amendment of the British North America Act, 1867.

CHAPTER 2.

PROPOSED AMENDMENTS.

ELABORATION OF PROPOSITIONS

First Proposition

To give to the Dominion Parliament and the Provincial Legislatures the power to amend the British North America Act, 1867, according to a procedure to be determined by agreement between the Dominion and the Provinces.

It is material in this regard to refer briefly to the development of Dominion status within the British Commonwealth of Nations. It is unnecessary, however, for the purposes of this Submission to trace such development step by step and it will suffice to refer to some aspects of the Dominion status as it was immediately following Confederation and as it is today.

As far back as the date of Confederation the principle, early laid down, that no law enacted by a Colonial Legislature should be repugnant to the law of England had given way before the provision of the Colonial Laws Validity Act, passed by the Imperial Parliament in the year 1865, that "Any colonial law which is or shall be in any respect repugnant to the provisions of any act of parliament extending to the colony to which such law may relate, or repugnant to any order or regulation made under authority of such act of parliament, or having in the colony the force and effect of such act, shall be read subject to such act, order, or regulation, and shall, to the extent of such repugnancy, but not otherwise, be and remain absolutely void and inoperative." The words "colony" and "colonial law" were so defined in the Statute as to make them ample to embrace the Dominion of Canada, to which the Act therefore applied.

To regard the status of the Dominion from another aspect, it is to be noted that at the date of Confederation the part played by a colony, in respect of the actual negotiations for a treaty was restricted to the appointment of agents who were not to "assume any independent character, or attempt to negotiate and conclude arrangements with the governments of foreign countries," but who would "only be authorized to confer with the British Minister in each foreign country, and to afford him information with respect to the interests of the British North American Provinces." (See Dewey: *The Dominions and Diplomacy*, Vol. 1, page 154.) The development in intra-Empire status of Canada that has taken place since that date does not depend, in the aspect which we are now examining, upon any provision of the British North America Act, but upon changing constitutional usage and convention. The extent to which such development has gone is indicated by current treaty making procedure under which a treaty between Canada and a foreign nation may be negotiated and signed on behalf of Canada by Canadian Ministers appointed by His Majesty on the advice of the Canadian Government, and subsequently ratified by His Majesty upon similar advice; and according to which are recognized treaties in the form of agreements entered into between the Canadian and foreign Governments to which His Majesty is not in form a party.

Finally it is desirable to refer to the reference in the Report of the Imperial Conference of 1926 to " the group of self-governing communities composed of Great Britain and the Dominions. Their position and mutual relations may be readily defined. They are autonomous Communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown, and freely associated as members of the British Commonwealth of Nations," and to The Statute of Westminster enacted by the Imperial Parliament in 1931 in the preamble to which it is set out that "it is in accord with the established constitutional position that no law hereafter made by the Parliament of the United Kingdom shall extend to any of the said Dominions as part of the law of that Dominion otherwise than at the request and with the consent of that Dominion," and which Statute goes on to provide by Section 2:

"2. Validity of laws made by Parliament of a Dominion.
—(1) The Colonial Laws Validity Act, 1865, shall not apply to any law made after the commencement of this Act by the Parliament of a Dominion.

(2) No law and no provision of any law made after the commencement of this Act by the Parliament of a Dominion shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of any existing or

future Act of Parliament of the United Kingdom, or to any order, rule or regulation made under any such Act, and the powers of the Parliament of a Dominion shall include the power to repeal or amend any such Act, order, rule or regulation in so far as the same is part of the law of the Dominion."

By Section 7 thereof the Statute is made inapplicable to the repeal, amendment or alteration of the British North America Acts, 1867 to 1930, or any order, rule or regulation made thereunder, and it follows that constitutional amendments for Canada are still within the exclusive legislative jurisdiction of the Imperial Parliament.

There are other indicia of emancipation from Colonial status to that of an "autonomous community" to which it is unnecessary to refer for it will be apparent from the foregoing that the retention by the Imperial Parliament of legislative control over the Constitution of the Dominion is by way of a particular power singled out and retained as against the increasing current of Dominion autonomy. It is unnecessary to argue the point that the power to amend the Constitution would be transferred to the Dominion upon a request to that effect by the Dominion and the Provinces; it is a question of effecting an agreement between Dominion and Provinces as to the terms upon which the authority to amend may be accepted; not a question of the willingness of the Imperial Parliament to bestow it.

It may be remarked that both the Act relating to the establishment of the Commonwealth of Australia and that relating to the Union of South Africa embody schemes for the amendment of their respective Constitutions without having recourse to the Imperial Parliament.

It is submitted that a similar provision should be introduced into the British North America Act, 1867, for a number of reasons.

In the first place, it behooves Canada, having attained the existing status freely accorded her within the British Commonwealth of Nations, to assume the task of keeping her own domestic affairs in order. It is not considered that it is in any sense humiliating, to have to go to the Imperial Parliament in this regard, nor would much be sought to be made of the argument that it is detractive from the essential dignity of the Dominion to have to do so. Suffice it to say that the submission is put forward upon the ground that if Canada is to achieve full maturity as a nation (albeit within the British Commonwealth) and if her people are to achieve a full and generous citizenship, conscious of their responsibilities, alive to their potentialities; in short, if there is to be a country, complete, and completely Canadian; it is essential that this responsibility, even if it be only symbolic, and, indeed, perhaps because it is symbolic, rest in the Canadian people.

In the second place, it is necessary, in some respects at least, that in practice the Constitution be made easier of amendment. It is essential that some machinery be devised which may be put in motion when the need arises, and that some definite understanding be reached as to the manner in which and conditions of assent subject to which amendments may be made. Doubtless there will arise occasions when all the Provinces will not see eye to eye; perhaps there will arise occasions when certain proposed amendments will be opposed by one Province or another very strenuously. To fail to anticipate such occurrences would be to ignore the history and nature of Confederations and human nature itself. It will be well that when such contingencies occur the rights of the parties, whether Dominion or Provinces, be clearly defined. At the present time when the compact theory, so called, is still liable to be evoked to support minority views, a proposal for an amendment may entail not only a difference of opinion as to the merits proper of the amendment, but an ancillary dispute as to the circumstances under which minority opinion must give way. The second source of difference, at least, could be removed by a definite scheme for amendment, if a satisfactory agreement about such a scheme could be reached.

The scheme itself will have to be worked out between the Dominion and the different Provinces. It is not the purpose of this Submission to suggest the details or exact nature of it. Considerable progress along the lines of discussion and examination of ways and means and framing of tentative proposals has already been made at Dominion-Provincial Conferences and the final arrangement should be arrived at in the same manner. Amendments of different kinds might be provided for in different ways; for instance, it might be provided that those Sections which affect the Dominion Parliament alone may be amended in the discretion of such Parliament; that those Sections which are of joint concern to the Dominion and the Provinces should be reserved for joint action; and that those Sections which were enacted as a protection for minority rights can only be amended with the consent of the Provinces affected. The first principle of any scheme of amendment must be that it safeguard minority rights and all other matters in their nature fundamental or that were made the subject of guarantee to the Provinces or any of them at the time of Confederation. The suggestion may be repeated here that if agreement can be reached about the specific amendments referred to in the Propositions numbered 2 to 9, inclusive, of this Submission, the matter of arriving at a satisfactory procedure for the amendment within Canada of the British North America Act may be left for future and detailed consideration, and it may be further suggested that if the specific amendments proposed, or a part of them, are effected and turn out successfully, this fact would have no little bearing upon the task of reaching an agreement about the procedure to be adopted for amending the Act within Canada.

Second Proposition

To provide for the reference or delegation of legislative authority by the Provinces to the Dominion and *vice versa*.

Section 94 of the British North America Act is as follows:

"94. Notwithstanding anything in this Act, the Parliament of Canada may make Provision for the Uniformity of all or any of the Laws relative to Property and Civil Rights in Ontario, Nova Scotia, and New Brunswick, and of the Procedure of all or any of the Courts in those Three Provinces, and from and after the passing of any Act in that Behalf the Power of the Parliament of Canada to make Laws in relation to any Matter comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted; but any Act of the Parliament of Canada making Provision for such Uniformity shall not have effect in any Province unless and until it is adopted and enacted as Law by the Legislature thereof."

The only use to which this Section appears to have been put up to the present time, is to demonstrate that the words "Property and Civil Rights" are used in Section 92 (13) in a wide and not in a restricted sense. See *Citizens Insurance Company of Canada vs. Parsons*, (1881), 7 Appeal Cases, page 96 at page 110. It is suggested that the reason the Section has not been used may be found in the words "and from and after the passing of any Act in that Behalf the Power of the Parliament of Canada to make Laws in relation to any Matter comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted"; and because no provision was made by which a Province could get back a subject of legislation that under this Section had been given to the Dominion: from which it would appear that once the Dominion were permitted under this Section to encroach upon a provincial field, the matter dealt with would become exclusively and for all time one for the Dominion.

Section 51 of the Commonwealth of Australia Constitution Act provides:

"51. The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to: . . ."

and the 37th placitum following is:

"51 (xxxvii). Matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that the law shall extend only to States by whose Parliaments the matter is referred, or which afterwards adopt the law:"

Mr. John Quick, in his work published in 1919 entitled "Legislative Powers of the Commonwealth and the States of Australia", says at page 593:

"No matters have yet been referred to the Commonwealth Parliament by the States."

But it will be seen from the Report of the Royal Commission on the Constitution, presented to the Governor-General of Australia, 21st November, 1929, that both before and since 1919 many proposals for such references have been considered by the conferences of the State and Commonwealth Prime Ministers, and attention would be drawn here to the following words which appear on page 182 of the Report in respect of the 37th placitum:

"On several occasions agreements have been made, principally at Premiers' Conferences, to submit to the State Parliaments proposals to refer subjects of legislation to the Commonwealth Parliament, with the object of bringing about uniformity. Doubts have been expressed as to the effect of paragraph (xxxvii.) of section 51 of the Constitution—(a) whether reference may be made in general terms, or only in the terms of a special Act; and (b) whether a reference once made may be withdrawn. These doubts have never been tested, as no reference to the Commonwealth Parliament by all the States simultaneously has ever been made."

It is now suggested that if the 37th placitum under Section 51 of the Commonwealth of Australia Constitution Act, and Section 94 of the British North America Act had been more restricted and had provided for conditional reference of legislation, the fates of the two sections would have been different and their uses greater.

It is submitted that a provision should be inserted in the British North America Act to the effect,

- (a) that a Province may transfer a subject or matter otherwise within exclusive provincial jurisdiction to the Dominion Parliament, whereupon Dominion legislation thereon within that Province will be valid and of exclusive effect;
- (b) that the Dominion may transfer a subject or matter otherwise within exclusive Dominion jurisdiction to a Province, whereupon provincial legislation thereon within the Province will be valid and of exclusive effect;

- (c) that either a Province or the Dominion may take back the subject of delegated authority upon such conditions as to time, etc., as are agreed upon at the time the subject is so transferred.

Various matters of detail will have to be worked out, for example, amending powers during the currency of legislation by virtue of delegated authority.

It is suggested that had such a section existed previous to the enactment of the Natural Products Marketing Act, 1934, (Canada) and had the matter of marketing come before a conference of the Provinces and the Dominion, the course of legislation upon that matter might have been far different and more satisfactory and much time have been saved and much unproductive expense avoided, because the various Provinces in favour of Dominion regulation of this matter could have delegated their authority so as to bestow upon the Dominion exclusive jurisdiction in this regard. Many other instances will occur. Doubtless a number of the Provinces would have come to an agreement to delegate to the Dominion in a similar fashion such subjects as maximum hours of work, weekly rest, and unemployment insurance, in respect of which Dominion legislation was held to be *ultra vires* and invalid upon the recent references to the Supreme Court of Canada and subsequent appeals to the Privy Council.

It is suggested that the existence of such a provision in the British North America Act, 1867, might have eliminated the necessity for seeking some, at least, of the specific amendments recommended in this Submission, and if inserted may obviate the necessity of some specific amendments in the future, and it is further suggested that if some of these specific amendments fail, through lack of agreement, to be given effect to, such a provision will provide a way in which the Provinces so desiring may vest the necessary jurisdiction to deal with some of the matters in question in the Dominion Parliament.

Third Proposition.

To provide for the establishment of a Federal Grants Commission to receive, consider and report upon applications from the Provinces for special grants of subsidies.

It is submitted that provision ought to be made for the establishment of a commission to entertain, examine and report upon applications of the Provinces for grants, in addition to those permanent grants provided to be made upon a definite basis such as the *per capita* grants or subsidies. It is suggested that such a commission might be patterned to some extent upon the Grants Commission in Australia.

Under the provisions of the Commonwealth of Australia Constitution Act, it was provided (Section 87) that during the first ten years from the establishment of the Commonwealth and thereafter until the Parliament otherwise provided, not more than one-quarter of the net revenue from customs and excise duties was to be applied annually by the Commonwealth for Commonwealth expenditures, and that the balance was to be paid over to the States. Section 96 of the Act provided that during the same ten year period and thereafter until otherwise provided, the Commonwealth Parliament might grant financial assistance to any State on such terms or conditions as it saw fit. The Surplus Revenue Act 1910, provided for *per capita* payments to the States and for the surplus revenue in the hands of the Treasurer of the Commonwealth at the end of each year to be divided among the States in proportion to population. The expiry of this Act in 1920 left the control of the Commonwealth over expenditure of Commonwealth revenue unfettered by legal or constitutional obligation to the States except as Section 94, which enacted that Parliament might provide on such basis as it deemed fair for the monthly payments to the States of all surplus revenue of the Commonwealth, might be construed as a direction and except as Section 81 might be construed as limiting the power of appropriation to the manner imposed by the Constitution. An agreement entered into between the Commonwealth and the States and validated by the Financial Agreements Act, 1929, provided *inter alia* that the Commonwealth should pay each of the States annually an amount equal to the payment that had been made to that State on a *per capita* basis for 1926-27, and for the Commonwealth taking over State debts. The period of the agreement was fifty-eight years.

In 1933, there was passed the Commonwealth Grants Commission Act in pursuance of the power given by Section 96 of the Constitution. It provided for the establishment of a Commonwealth Grants Commission empowered to inquire into and report to the Governor-General upon,

- (a) applications made by any State to the Commonwealth for the grant by the Parliament of financial assistance in pursuance of section ninety-six of the Constitution;
- (b) any matters relating to grants of financial assistance made in pursuance of that section by the Parliament to any State which are referred to the Commission by the Governor-General; and
- (c) any matters relating to the making of any grant of financial assistance by the Parliament to any State in pursuance of that section, which are referred to the Commission by the Governor-General.

It is submitted that if a Federal Grants Commission be established as recommended, it should, in dealing with applications for special grants, proceed upon the following broad principles:

(a) that each Province, assuming upon its part a competent and economic administration and restriction of expenditure to proper provincial purposes, should be enabled to maintain the standard of government services normal throughout Canada upon the basis of a rate of taxation normal throughout Canada, and that where such services fall appreciably below such normal standard or the rate of taxation rises appreciably above the normal rate, these conditions should be corrected by an appropriate special grant;

(b) that where the people, as distinguished from the government of a Province, have suffered as a result of a Federal policy or as a result of conditions which though not brought about by a deliberate policy are attendant upon the establishment and natural development of a Confederation, so that the standard of living of such people has fallen below the normal standard of living of the Dominion of Canada, such conditions in so far as they cannot be or are not ameliorated by Federal action should be compensated by appropriate special consideration.

The functions of such a Commission and the principles upon which it is considered such a Commission should proceed will be elaborated upon in the Financial Part of this Submission.

Fourth Proposition.

To give the Parliament of the Dominion exclusive jurisdiction over the matter of marketing.

This Proposition is intended to refer to the matter of marketing and the matters incidental thereto which were the subject matter of the Natural Products Marketing Act, 1934 (Canada) which was declared to be *ultra vires* the legislative power of the Parliament of the Dominion of Canada upon a recent reference to the Supreme Court of Canada, the decision in which was appealed to the Privy Council.

The Act defined "marketing" as:

"2(c) 'Marketing' includes buying and selling, shipping for sale or storage and offering for sale;"

"Natural product" as:

- "2(e) 'Natural product' includes animals, meats, eggs, wool, dairy products, grains, seeds, fruit and fruit products, vegetables and vegetable products, maple products, honey, tobacco, lumber and such other natural product of agriculture and of the forest, sea, lake or river and such article of food or drink wholly or partly manufactured or derived from any such product, and such article wholly or partly manufactured or derived from a product of the forest as may be designated by the Governor-in-Council."

And provides by Section 4 for the Board established by the Act to have power

- "(a) to regulate the time and place at which, and to designate the agency through which the regulated product shall be marketed, to determine the manner of distribution, the quantity and quality, grade or class of the regulated product that shall be marketed by any person at any time, and to prohibit the marketing of any of the regulated product of any grade, quality or class;"

It is believed that the Parliament of the Dominion of Canada ought to have exclusive jurisdiction over the matter of marketing as dealt with in this Act for the reason, first, that jurisdiction to regulate intra-provincial, inter-provincial and foreign marketing ought to repose either in the Provinces or in the Dominion and ought not to be divided between the Provinces and Dominion as it now is, and secondly, for the reason that only the Dominion can effectively deal with marketing in these three aspects. In other words, it is essential that complete jurisdiction over marketing go either to the Dominion or to the Provinces, and it is submitted for the reasons to be referred to that it should go to the Dominion.

An important aspect of the regulation of marketing is the fixing of grades and standards of natural products. In the contemplation of foreign markets, commodities are seldom Nova Scotian, or British Columbian, but they are Canadian; and it is considered essential, therefore, that the grades and standards of commodities be uniform throughout Canada; nor is it considered likely that the different Provinces through independent, even if cooperative, action could attain uniformity throughout Canada of grades and standards. It is to be taken into consideration also that, particularly in respect of agricultural natural products, the Dominion has an organization and the necessary machinery to deal with the regulation of marketing which many of the Provinces

have not developed. It is further to be taken into consideration that the negotiation of trade treaties and agreements with which the matter of marketing is associated, is a matter entirely within Dominion competence, and furthermore that it has been generally recognized that the matter of developing export markets is a responsibility of the Federal Government.

It is to be clearly understood that the work carried on by the provincial Departments of Agriculture and Marketing along the lines of education, instruction and assistance in matters relating to production and marketing, including grading, is deemed to be a service that should be continued by the Province, and it is not intended that the authority of the Province to maintain such service should be in any way curtailed or interfered with by the proposed amendment, and the Proposition for the transfer of marketing to the Dominion is made subject to this understanding.

The present situation in respect of legislative jurisdiction over this subject is indicated in the decisions of the members of the Supreme Court of Canada and of the Judicial Committee of the Privy Council which are reported *sub nom Reference Re Natural Products Marketing Act*, and *sub nom Attorney General British Columbia vs. Attorney General Canada et al, Reference Re Natural Products Marketing Act*, 1934, respectively, in 1936, 3 Dominion Law Reports, page 622, and in 1937, 1 Dominion Law Reports, page 691, respectively.

The Natural Products Marketing Act, 1934, as amended by Chapter 64 of the Statutes of Canada for 1935, provided in effect and with qualifications (broadly speaking) that the Governor-in-Council may establish a Dominion Marketing Board to regulate marketing in the manner provided by Section 4 (a), already set out; for arrangements to be made for equalization of returns from such products; for local marketing schemes to be instigated by persons engaged in production or marketing and to be regulated by local boards to which the Dominion Board was authorized to delegate certain of its powers; for the Minister administering the Act to propose himself to the Governor-in-Council a local scheme to be administered by the Dominion Board alone or in cooperation with a local board for regulating inter-provincial or export trade in a natural product; for the Governor-in-Council to regulate export and import of natural products from and into Canada. Before a scheme could be approved the Governor-in-Council must have been satisfied that the principal market for the natural product was outside the Province of production or that some part of the product produced might be exported. Part II of the Act provided for the Minister to direct an investigation into the spread in connection with the production, processing and marketing of natural products; that any person who, to the public detriment or against the public interest, received a spread that restrained or injured trade or commerce in that product, was guilty of an indictable offence. The final

Section of the Act provided that if any Section was *ultra vires* the Dominion Parliament, none of the other Sections should for that reason be held to be *ultra vires* also but should be treated as separate and independent enactments.

The decision of the Judicial Committee of the Privy Council was delivered by Lord Atkin who said in part and in effect, that since the Act covered transactions completed within the Province and which have no connection with inter-provincial or export trade (as it obviously did), the Act purported to affect property and civil rights in the Province; that the Regulation of Trade and Commerce under Section 91 (2) of the British North America Act does not permit regulation of individual forms of trade or commerce confined to the Province; and that their Lordships agreed with the Chief Justice of the Supreme Court of Canada that the Dominion Parliament could not acquire jurisdiction to deal in a sweeping way with such local and provincial matters by legislating at the same time respecting external and inter-provincial trade and committing the regulation of both intra-provincial and inter-provincial or foreign trade to the same authority, as was pointed out in the case of *The King vs. Eastern Terminal Elevator Company*, 1925, 3 Dominion Law Reports, page 1.

It was argued that the legislation in question was within the contemplation of the general words at the beginning of Section 91 of the British North America Act. Lord Atkin said that the same reply applied to this argument as had been made to a similar argument in the Reference concerning Hours of Labour, Weekly Rest, and Minimum Wages. In that case it was said by Lord Atkin in delivering the decision of the Privy Council that their Lordships agreed with that part of the decision of the Chief Justice of the Supreme Court of Canada in the *Reference Re Natural Products Marketing Act* which dealt with the argument that the Act there in question could be supported under the general words of Section 91, and that it was to be hoped that the relevant pages of the decision of the Chief Justice would become the *locus classicus* of the law on this point and preclude further disputes. The argument that the enactment of this legislation was a valid exercise of the power of the Dominion Parliament under the general words of Section 91, to make laws for the peace, order and good government of Canada, was sought to be supported upon the words of Lord Watson in the case of *Attorney General for Ontario vs. Attorney General for the Dominion*, 1896 Appeal Cases, page 348 at page 361, which are as follows:

"Their Lordships do not doubt that some matters, in their origin local and provincial, might attain such dimensions as to affect the body politic of the Dominion, and to justify the Canadian Parliament in passing laws for their regulation or abolition in the interest of the Dominion. But great caution

must be observed in distinguishing between that which is local and provincial, and therefore within the jurisdiction of the provincial legislatures, and that which has ceased to be merely local or provincial, and has become matter of national concern, in such sense as to bring it within the jurisdiction of the Parliament of Canada."

In his *locus classicus*, which begins at page 633 of Volume 3 of the Dominion Law Reports for the year 1936, the Chief Justice pointed out that the words "property and civil rights" in Section 92 (13) of the British North America Act, are used in their widest sense and that the legislation in question admittedly affected civil rights; that the exception at the beginning of Section 91, which excludes from the ambit of the general power by that Section given, all matters assigned to the exclusive authority of the Provincial Legislatures must be given full effect; that the words of Lord Watson already referred to, established no rule of construction nor mean that all the enumerated subjects in Section 92 may change in aspect so as to come within the general words of Section 91; and that, consistently with the case of *Attorney General of Canada vs. Attorney General of Alberta*, 60 Dominion Law Reports, page 513, (commonly referred to as the "Board of Commerce Case"), the case of *Toronto Electric Commissioners vs. Snider et al*, 1925, 2 Dominion Law Reports, page 5, and the case of *Fort Frances Pulp and Paper Company vs. Manitoba Free Press Company*, 1923, 3 Dominion Law Reports, page 629, which emphasized the highly extraordinary and exceptional nature of the circumstances that would be required to bring a situation within the contemplation of Lord Watson's words, the argument that The Natural Products Marketing Act, 1934 could be supported by reference to the general words of Section 91 must fail.

It was, therefore, decided that the Act in question was *ultra vires* the legislative jurisdiction of the Parliament of the Dominion of Canada, affecting as it did civil rights within the Provinces.

The converse of the situation disclosed in the *Reference of the Natural Products Marketing Act*, 1934, was disclosed in the case of *Lawson vs. Interior Tree Fruit and Vegetable Committee of Direction*, 1931 Supreme Court Reports, page 357. The Produce Marketing Act, being Chapter 54 of the Acts of British Columbia for 1926-27, provided for the establishing of committees to regulate the "marketing" of tree fruits and vegetables by determining in respect of such marketing the times, places, quantities and prices. The purported powers of the committee, or some of such powers, were sought to be qualified by the words "so far as the legislative authority of the Province extends." "Marketing" was defined as "the buying and selling of a product and includes the shipping of a product for sale or for storage and subsequent sale and the offering of a product for sale and the contracting for the sale or purchase of a

product, whether the shipping, offering or contracting be to or with a purchaser, a shipper or otherwise, but does not relate to the marketing of a product for consumption outside the Dominion, and 'market' has a corresponding meaning." Without deciding the effect of the words "so far as the legislative authority of the Province extends," it was held by the Supreme Court of Canada, per Mr. Justice Duff who delivered the judgment of himself, Mr. Justice Rinfret and Mr. Justice Lamont in an action brought to test the constitutional validity of the Act, that since a Committee had attempted, in professed exercise of the authority of the Act, to control the sale of products for shipment from British Columbia into the Prairie Provinces, the plaintiff fruit producer was entitled to a declaration that the Committee had no authority in any manner to regulate or control "marketing" (in the sense defined by the Act) of his product for consumption beyond the boundaries of British Columbia, upon the ground that trading matters of inter-provincial concern are, upon the authority of *Citizens Insurance Company of Canada vs. Parsons*, (1881) 7 Appeal Cases, page 96, and "Wharton's Case", *John Deere Plow Company, Limited, vs. Wharton*, 1915 Appeal Cases, page 330, among the matters within the exclusive jurisdiction of the Dominion Parliament under Section 91 (2) of the British North America Act.

Thus it will appear that a Province cannot enact a marketing scheme to completely regulate the marketing of provincial products without running afoul of Section 91 (2) of the British North America Act, and that the Dominion cannot enact a scheme to completely regulate the marketing of natural products produced within Canada without running afoul of Section 92 (13) of that Act.

As to effecting a complete and satisfactory scheme or schemes to cover intra-provincial, inter-provincial and foreign marketing, the words of Lord Atkin in the Reference of the Natural Products Marketing Act, 1934, may be noted where they occur on page 694 of Volume 1 of the Dominion Law Reports for the year 1937:

"It was said that as the Provinces and the Dominion between them possess a totality of complete legislative authority, it must be possible to combine the Dominion and Provincial legislation so that each within its own sphere could in cooperation with the other achieve the complete power of regulation which is desired. Their Lordships appreciate the importance of the desired aim. Unless and until a change is made in the respective legislative functions of Dominion and Province it may well be that satisfactory results for both can only be obtained by co-operation. But the legislation will have to be carefully framed, and will not be achieved by either party leaving its own sphere and encroaching upon that of the other."

It is hardly necessary to point out that, even assuming the complete cooperation of the Dominion and the Provinces, the situation where the institution of an effective scheme depends upon successfully walking the tightrope of constitutional validity where an "encroachment" is not an encroachment at all, but a step into the thin air spread over the morass of constitutional invalidity, is not a very satisfactory one.

Subsequently to the Reference to the Supreme Court of Canada of the National Products Marketing Act, 1934, and the appeal therein to the Privy Council, a Marketing Act of the Province of British Columbia, The Natural Products Marketing (British Columbia) Act, being Chapter 38 of the Acts of that Province for 1934 as amended by Chapters 34 and 30, respectively, of the Acts of the First and Second Sessions, respectively, of the Legislature of that Province for the year 1936, was held to be *intra vires* the provincial Legislature by the Court of Appeal of British Columbia upon a Reference of the Act to that Court *sub nom Reference Re Natural Products Marketing (British Columbia) Act, 1937* 3 Western Weekly Reports, page 273; it having previously been held to be *ultra vires* by Mr. Justice Manson of the Supreme Court of British Columbia in the case of *Hayward et al vs. British Columbia Lower Mainland Dairy Products Board, 1937*, 2 Western Weekly Reports, page 401. Suffice it to say, without examining the Act or the *ratio decidendi* of the decisions referred to, that even upon the view that marketing should be a provincial responsibility, it does not appear that there is any likelihood of provincial marketing schemes effective to regulate the marketing of provincial products designed for extra-provincial consumption, being ultimately upheld by the Courts upon the principles of *Reference Re Natural Products Marketing (British Columbia) Act*.

By way of recapitulation, it may be said

(a) that under the present distribution of legislative powers between the Dominion and the Provinces, the Dominion cannot enact a marketing scheme effective to regulate intra-provincial marketing;

(b) that no Province can enact a scheme effective to regulate inter-provincial or foreign marketing;

(c) that for the reasons given at the beginning of this Proposition, power to regulate intra-provincial, inter-provincial and foreign marketing, should repose in one legislative authority and for the further reasons then given, such power should repose in the Dominion Parliament.

Fifth Proposition

To remove any question as to the jurisdiction of the Provinces to impose taxes collected by the Provinces partaking of the nature of sales tax.

In considering sources of new revenue, there is to be kept in mind the principle already postulated that under normal conditions the Province should have available sufficient revenue, or sufficient sources of revenue, to balance its budget, provided always that the provincial administration, be economic and restricted to accepted functions of government within provincial competence. It is also to be kept in mind in this regard that the point at which provincial revenue will be sufficient depends upon two variables: (1) the services required of the Province, and (2) the amounts of subsidies which the Province obtains from the Dominion.

Under the provisions of the British North America Act, the sources of provincial income are dealt with and limited by two heads of Section 92, namely, Section 92 (2), "Direct Taxation within the Province in order to the raising of a Revenue for Provincial Purposes", and Section 92 (9), "Shop, Saloon, Tavern, Auctioneer, and other Licenses, in order to the raising of a Revenue for Provincial, Local or Municipal Purposes." It need not be demonstrated that the important heading is Section 92 (2), and it will be noted that the field of Dominion Taxation may extend to any mode or system whatsoever, including of course direct as well as indirect taxation, while the provincial fields are definitely and absolutely limited to direct taxation.

Whatever may have been the intention of the Fathers and Authors of Confederation when they conferred upon the Provinces powers of direct taxation, suffice it to say that the criterion applied today to determine whether a Province in imposing a tax has kept within its own powers or has purported to encroach upon the field of indirect taxation, is the definition of John Stuart Mill, which, as the standard, has been firmly established by a long line of cases including the two now to be referred to, and which is as follows:

"Taxes are either direct or indirect. A direct tax is one which is demanded from the very persons who it is intended or desired should pay it. Indirect taxes are those which are demanded from one person in the expectation and intention that he shall indemnify himself at the expense of another; such are the excise or customs. The producer or importer of a commodity is called upon to pay a tax upon it, not with the intention to levy a peculiar contribution upon him, but to tax through him the consumers of the commodity, from whom it is supposed that he will recover the amount by means of an advance in price."

It is suggested, that if the from time to time members of the Privy Council in general leaned in favour of the Provinces in interpreting those Sections, 91 and 92, of the British North America Act dealing with the distribution of legislative powers and responsibilities, they appear to have leaned quite the other way when it was a question whether a tax sought to be imposed by one of the Provinces to support such responsibilities and powers was within the scope of Section 92 (2) which authorized the Province to impose direct taxation within the Province in order to the raising of a revenue for provincial purposes.

It is submitted that the Provinces, in the interests of balanced budgets and in accordance with the principles above referred to throughout this Submission, ought to be permitted to enter the field of indirect taxation to the extent at least of being allowed to impose taxes of the nature referred to in this Proposition.

The situation in respect of the jurisdiction of the Provinces in this regard may be brought into relief by a brief reference to two cases that were decided in the Privy Council. In 1927 this body was called upon to consider the constitutional validity of the Fuel-Oil Tax Act, being Chapter 251 of the Revised Statutes of British Columbia, 1924. The case is reported *sub nom Attorney General for British Columbia vs. Canadian Pacific Railway Company*, 1927 Appeal Cases, page 934. This Act provided by Section 3, in effect, that every person who within the Province purchased fuel oil when sold for the first time after its manufacture in or importation into the Province, should pay a tax thereon to be levied and paid as provided. Section 4 provided, in effect, that every vendor, at the time of sale to such a purchaser, should levy and collect the tax and account for it. Section 6 provided that every person, subject to exceptions, who had in his possession for consumption any fuel oil in respect of which no tax had been paid, should, prior to consumption, pay the tax. The decision of the Judicial Committee was delivered by Viscount Haldane who took the principle laid down in earlier cases that the definition of John Stuart Mill, which is set out above, is to be taken as a fair basis for testing the character of the tax in question, not as a legal definition but as embodying with sufficient accuracy an understanding of the most obvious indicia of direct and indirect taxation, and that validity in accordance with such tendencies, and not according to results in isolated or merely particular instances, must be the test. Taking this principle, His Lordship held that while it might be true having regard to the practice of the Canadian Pacific Railway Company that the oil they purchased was consumed by them and not afterwards re-sold, they might on the other hand develop their business so as to include the re-sale of the oil they had bought and that if this was practical the tax, under the principle referred to, was indirect, fuel oil being a marketable commodity and those who purchase it acquiring the right to take it into the market; and he held the tax to be indirect and *ultra vires* the provincial Legislature.

In the year 1934, the Privy Council was called upon to consider the constitutional validity of the Fuel-Oil Tax Act, 1930, of the same Province. The case is reported *sub nom Attorney General for British Columbia vs. Kingcome Navigation Company, Limited*, 1934 Appeal Cases, page 45. This Act provided for a tax to be paid by every person who consumed any fuel oil in the Province, in respect of that fuel oil, at the rate of 1½c per gallon, the tax to be paid and collected as provided by the regulations. Lord Thankerton, who delivered the decision of the Board, said that the test was John Stuart Mill's definition, which is set out above, and that according to this definition the tax was direct and within the competence of the provincial Legislature. It would appear from the decision of the Privy Council in this case that it may be said that the question whether a tax is direct or indirect is to be determined therefore by the application of that definition; that the question whether a tax is direct or indirect cannot depend upon those special events that may vary it in particular cases, and the fact that by contract or arrangement individual taxpayers may recoup themselves, does not alter the nature of the tax; nor in looking to see if the ultimate incidence is upon the person from whom the tax is demanded, do you consider the "ultimate incidence" in the sense of the political economists, but rather whether the tax is one whose incidence is by its nature such that normally it is borne by the first payer and is not susceptible of being passed on. It was pointed out by His Lordship that where a tax is imposed in respect of a transaction or in respect of some dealing with commodities the taxing authority is indifferent as to which of the parties to the transaction ultimately bears the burden, so that the tax is not intended as a peculiar contribution upon the particular party selected to pay it; such a tax, by necessary inference, would be indirect. Their Lordships were unable to find in this case justification for the suggestion that the tax in question was truly imposed in respect of the transaction by which the taxpayer acquired the property in the fuel oil or in respect of any contract or agreement under which the oil was consumed, and as has been stated their Lordships came to the conclusion that the tax imposed by the Act under consideration was direct taxation within the meaning of Section 92 (2) of the British North America Act, and further, that the Act was not invalid as infringing upon Section 91 (2) relating to the regulation of trade and commerce.

It will occur from the foregoing that what is being asked for is not so much authority to impose a tax, as authority to impose that tax in a particular and effectively collectible manner. To elaborate, there appears to be no doubt about the jurisdiction of the Province to impose a tax, say, upon the residents of the Province in respect of the apples they actually consume; but to impose a tax of like ultimate effect in a way in which it could be effectively collected, for example, by imposing it on the retailer who would in turn pass it on to the consumer, is another question, and such a tax would be *ultra vires* the Province.

There is at present in force in the Province of Nova Scotia a tax called the gasoline tax imposed by the Gasoline Tax Act, 1926, as amended, the effective provision of which is that every person purchasing or receiving delivery in Nova Scotia of gasoline for his own use shall pay a charge or tax at such rate not exceeding 8c a gallon as the Governor-in-Council from time to time determines on all gasoline so purchased or received; and that the Governor-in-Council may make regulations for carrying out the provisions of the Act. Under the regulations so made a licensee, i. e. a person licensed to sell gasoline under The Gasoline Licensing Act, 1934, collects the tax from every purchaser to whom he sells gasoline and pays it to the Minister of Highways *or to the vendor from whom such licensee purchases, at the time of making such purchase, if such vendor has an agreement with the Minister for the collection of the tax.*

It will be apparent that the scheme of the Nova Scotia gasoline tax, particularly in the respect that the tax is in the first instance to be paid by the licensee *at the time of purchase by him* from a vendor with whom the Minister has an agreement for collection of the tax, is not entirely free from doubt in respect of its constitutional validity, and the tax being a necessary and otherwise proper one for the raising of a provincial revenue, it is submitted that by amendment to the British North America Act, any question that might be raised as to the jurisdiction in this regard of the Provinces should be resolved in the Provinces' favour. While it is fairly clear that the Province by properly framed legislation may impose a tax upon the ultimate consumer, it is equally clear that difficulties in collecting such a tax, without bringing it within the field of indirect taxation, are so considerable as to greatly impair the value of this power.

In 1934 there was enacted by the Legislature of the Province of Nova Scotia, the Fuel Oil Tax Act. It was amended by Chapter 50 of the Acts of 1936. The Fuel Oil Tax Act has never been proclaimed. It provides in substance that every person who consumes any fuel oil in the Province shall pay a tax thereon at a rate not exceeding 1c a gallon, and under the rule of the "Kingcome Case" (*Attorney General for British Columbia vs. Kingcome Navigation Company*, 1934 Appeal Cases, page 45) would likely be held *intra vires* the provincial Legislature.

It may be said by way of recapitulation

(a) that a province may, by properly framed legislation impose a tax upon persons within the Province in respect of commodities actually consumed by such persons;

(b) that the practical difficulties of collecting such a tax limit the classes of commodities in respect of which it may effectively be applied, and for this reason and because of the

practical difficulties of collecting the tax even when applied to such limited classes of commodities, the value of the tax to the Province is seriously impaired;

(c) that it is essential to the obtaining of sufficient revenue by certain of the Provinces, including this Province, that they should have undoubted legislative competence to impose the taxes now collected by them partaking of the nature of sales tax;

(d) that to remove any doubt as to such legislative competence the British North America Act should be amended to permit the Provinces if necessary to enter, to the extent of such taxes, into the field of indirect taxation.

It is apprehended that the Dominion, if otherwise willing to give effect to this Proposition, may wish to remove a number of specified commodities, such as liquors, tobaccos and malt, from the application of such permissive amendment, and the Province of Nova Scotia would be satisfied to have such commodities excluded from the application of provincial taxes of the nature referred to.

Sixth Proposition

To provide for the Dominion to assume full financial responsibility for old age pensions and mothers' allowances.

The former service, which now includes pensions for the blind, is presently administered by the Provinces, the money being contributed as to seventy-five per cent of it by the Dominion, and as to twenty-five per cent of it by the Province, and the cost of administration being borne entirely by the Province. Because of the nature of the scheme, it has never yet come before the Courts, but it is not at all inconceivable that this might happen. The words of Lord Atkin in the Reference of The Employment and Social Insurance Act, as they appear on page 687 of Volume 1 of the Dominion Law Reports for 1937, should be considered in this respect. His Lordship said "But assuming that the Dominion has collected by means of taxation a fund, it by no means follows that any legislation which disposes of it is necessarily within Dominion Competence."

Mothers' allowances, differing in some degree from Province to Province, are at present entirely supported by the individual Provinces in which they are administered. It would appear that such services as old age pensions and mothers' allowances, although, as it has been said, the constitutional validity of the schemes under which they are administered

has never been considered by the Courts, come within the class of matters relating to property and civil rights within the Province or the class of matters of a merely local or private nature within the Province.

It is submitted that the entire cost of such services should be assumed by the Dominion because the costs of such services at present constitute a burden, to the extent that they are borne, upon a number of the Provinces. Nor is it considered that in such a service as mothers' allowances, the amounts that can be paid and the circumstances to which the allowances can be extended ought to be restricted in any Province below the normal standard of such services throughout the Dominion, because such Province through no fault of its own cannot obtain sufficient revenue to support the normal standard. Such, however, may be the case where the service is an entirely provincial one. The expenditure of Dominion revenues in support of such services should, having in mind the words of Lord Atkin previously referred to, be placed upon a firm constitutional basis by an appropriate amendment to the British North America Act bestowing upon the Dominion Parliament an undoubted jurisdiction to expend money for such purposes.

Seventh Proposition

That provision ought to be made, by way of amendment to the British North America Act or otherwise, for annual conferences to be held at a fixed time between representatives of the Provinces and representatives of the Dominion.

From time to time Dominion-Provincial and Inter-Provincial conferences have been held among the Provinces and the Dominion of Canada.

The first inter-Provincial conference was held at the City of Quebec in 1887. It was convened by the Premier of Quebec and all the Provinces then forming part of the Dominion, except Prince Edward Island and British Columbia, were represented. The Dominion Government was invited to send a representative but apparently did not do so. At this conference a number of questions as to the autonomy of the Provinces, their financial arrangements, and other matters of provincial interest, were considered. Subsequent inter-Provincial conferences were held at the City of Quebec in 1902, and at Ottawa in 1910, 1913 and 1926. The first of these conferences was called by the Premier of Quebec, and that Province together with Nova Scotia, New Brunswick, Prince Edward Island and Manitoba were represented, and resolutions were passed respecting subsidies and grants by the Dominion to the Provinces. The 1910 conference was convened by the Prime Ministers of Ontario and Quebec at the request of the Prime Ministers of Nova Scotia, New Brunswick and Prince Edward Island, to consider the representation

of the Maritime Provinces in the House of Commons of Canada. The 1913 conference was likewise convened by the Prime Ministers of Ontario and Quebec and resolutions were passed respecting subsidies and other matters. All the Provinces were represented and the Prime Minister of Canada, upon invitation of the conference, attended one of the sittings. At the conference of 1926, the matter of subsidies was discussed and the matters of succession duties, corporation taxes and incorporation of companies, fuel products and distribution, and the sale of shares legislation. All the Provinces were represented but the Dominion was not invited.

The first Dominion-Provincial conference was held at Ottawa in 1906, and was convened by the Prime Minister of Canada to consider financial subsidies to the Provinces, all of which were represented. Subsequently, Dominion-Provincial conferences were held at Ottawa in 1918, 1927, 1934 and 1935. The 1918 conference, convened by the Prime Minister of Canada, considered the problem of soldiers' settlement, the general problem of land settlement, and the request of the Prairie Provinces for the transfer to them of their natural resources, and all the Provinces were represented. At the 1927 conference all the Provinces were represented, and constitutional, financial, social and economic matters were discussed. The 1934 conference discussed unemployment and relief measures, and the agenda of the 1935 conference included the following questions:

- (1) Questions relating to the procedure that should be followed in amending the British North America Act.
- (2) Questions relating to the financial relations between the Dominion and Provinces, and to Taxation.
- (3) Questions relating to Unemployment and Relief.
- (4) Questions relating to responsibility for, and co-ordination of Social Services.
- (5) Questions relating to Mining Development and Taxation.
- (6) Questions relating to Agriculture and Marketing.
- (7) Questions relating to Tourist Traffic Development.

In November 1937 a conference was held at Ottawa between Dominion and Provincial representatives administering old age pensions.

These conferences have proved to be very valuable and have produced results beneficial not only to the Provinces but to the Dominion as a whole.

Similarly in the Commonwealth of Australia, according to the *Report of the Royal Commission on the Constitution* presented to the Governor-General on the 21st November, 1929, conferences have been held between the Prime Ministers of the different States of the Commonwealth almost every year since the establishment thereof in 1901. At most of these conferences a Commonwealth Minister has attended and in recent years the Prime Minister of the Commonwealth has opened the conference. In 1908 New South Wales undertook to provide a secretariat which would serve as a link between successive conferences. Most of the attention of the conferences has been devoted to two topics: financial relations of the States and the Commonwealth, and the problem of industrial relations. At a conference of the Commonwealth and State Prime Ministers in 1929, it was resolved that the meeting of the Prime Minister of the Commonwealth with the Prime Ministers of the States be held annually.

It is submitted that the idea embodied in the practice of such conferences should, in the Dominion of Canada, be elaborated and extended and that provision should be made, perhaps in the British North America Act itself, for annual conferences between the Premiers of the different Provinces and the Prime Minister and other executive heads of the Dominion Government, to be held at a fixed time. The conferences should have a small but efficient secretariat to insure continuity of the proceedings, arrange the agenda, collect data, and perform other like duties. Attendances should not be made to depend upon whether the Provinces have particular issues to bring before the conference, but should be regular and as a matter of course. Each conference in some of its aspects at least should be an informal round table where the problems or the difficulties of any Province could be brought out and aired informally. Where, for instance, a trade practice current in one Province and capable of regulation by the Legislature of that Province or of amelioration by discreet action on the part of the Government of that Province, was felt by one or more of the other Provinces to be unfair to the residents thereof, such problem could be discussed between the Premiers of the Provinces concerned or by the whole conference in a merely informal way. While discussion upon certain topics would doubtless have to depend upon notice given and inclusion on the agenda, a large range of other matters could be discussed in the informal manner referred to. An appreciation of difficulties, brought home in a friendly way, without obligation on those concerned to act, or to act in a particular way, or for a particular time, is sometimes productive of cooperation and correction, where formality and the fear of incurring definite and unavoidable obligation will retard corrective action and estrange sympathy. The representation of each Province might be unlimited since no legal consequences would flow from the conferences, or it might be restricted within specified limits, and those heads of departments by whom any Province or the Dominion would be represented, would depend on that

Province or the Dominion and upon the matters intended or likely to be discussed. Through the secretary, any Province might request the attendance on behalf of the Dominion of the head of a particular department, and through the secretary or directly, might suggest the attendance of a head of a particular department in any other Province. Conferences for particular purposes, such, for example, as those that take place from time to time between the different provincial departments administering old age pensions or administering the different provincial company laws might be held upon the occasion of the annual conference and where convenient these conferences could be made a part of the major conferences.

One matter that might conceivably be dealt with by such conferences would be proposals to refer subjects to the Dominion Parliament by the Provincial Legislatures or *vice versa* under the plan proposed in Proposition number two. Proposals to refer legislation have from time to time occupied the attention of the Australian conferences although, and perhaps for the reason previously indicated under Proposition number two, the activities of the conferences in this regard do not seem, from the Report of the Royal Commission already referred to, to have met with entire success; although in this regard attention may be drawn to the words of the Report at page 181:

"Witnesses who had attended one or more conferences on behalf of their respective States said that the value of these conferences could not be judged from the presence of the same item on successive agenda papers. The conferences may not be successful as instruments for having proposals passed into law, but they have considered or formulated agreements between one or more States which have been or are being carried into effect. In a great number of instances recommendations or resolutions of a conference have not been carried out, but in many instances suggestions have been made which have brought about legislation on the part of the Commonwealth or of one or more States."

Indeed perhaps the most important function of the Canadian conferences proposed would not lie in getting anything done directly at the conference itself in the sense of having legislation definitely agreed upon or definite schemes actually instituted, but would lie rather in the opportunity for discussion and for creating a spirit and an attitude of co-operation among the Provinces and the Dominion, and a willingness based upon sympathy and understanding, on the part of one section of the Dominion to assist in so far as possible in correcting the difficulties of another section. As illustrative of the work of the Australian conference, the following excerpt is taken from the Report already referred to; see page 183:

“Aviation.

In 1920 on the motion of the Prime Minister a resolution was carried at a Premiers' conference in the following form:—

“(1) That it is desirable that each of the Parliaments of the States should refer to the Parliament of the Commonwealth pursuant to section 51 (xxxvii) of the Commonwealth of Australia Constitution Act the matter of the control of air navigation, but so as to retain to each State (a) the right to own and/or use for the purposes of the government of the State air-craft operating within the State, and (b) the police powers of the State.

(2) That it is desirable that pending the passing of legislation by the Parliament of the Commonwealth pursuant to such reference the States shall each enact regulations similar to the Imperial Act, 9 George V., ch. 3, to secure uniform legislation and regulations. That the Premier of New South Wales as executive officer be requested to draft and submit to the State governments (a) a bill to provide for the regulations for the control by the Commonwealth of the necessary powers in accordance with the terms of paragraph 1 of the foregoing resolution, and (b) a bill to provide for uniform action by the States pending the passage of Commonwealth legislation.’

The Commonwealth thereon passed the *Air Navigation Act* 1920. Four States dealt with the matter. Tasmania and Queensland passed Acts substantially in accordance with the terms of the resolution. Victoria and South Australia passed Acts on different lines. In New South Wales and Western Australia bills in accordance with the terms of the resolution were introduced but not passed (evidence, pp. 49, 270-271).

At the conference of Commonwealth and State Ministers held in May, 1929, it was agreed that the Commonwealth should draft a bill to be submitted to the governments of the States transferring to the Commonwealth Parliament full power to legislate with respect to aviation and matters incidental to aviation, and the State Governments undertook to consider whether they would submit the bill to their respective Parliaments at an early date.”

The subjects of the Conventions agreed on by the International Labour Conferences at Geneva, and some of which were dealt with by the Parliament of Canada in the three Acts, The Minimum Wages Act, 1935,

The Limitation of Hours of Work Act, 1935, and The Weekly Rest in Industrial Undertakings Act, 1935, which are later referred to in this Submission and which were referred to the Supreme Court of Canada and thence, by appeal, to the Privy Council, for opinion as to their constitutional validity, have from time to time been referred to the States by the Commonwealth Government on the assumption that to give effect to them by legislation was not within the powers of the Commonwealth Parliament. These conventions were before the Australian conference in 1927 and again in 1929 and again exemplify the matters with which such a Canadian conference could deal.

Eighth Proposition

To concede to the transfer to the Parliament of the Dominion, subject to certain conditions including ample provision being made for the full protection of local and particular interests, exclusive jurisdiction over the matters of unemployment insurance, employment service, maximum hours of labour, weekly rest, and allied matters.

This Proposition is intended to refer to the foregoing subject matters as they were dealt with in The Employment and Social Insurance Act, The Limitation of Hours of Work Act and The Weekly Rest in Industrial Undertakings Act, being Chapters 38, 63 and 14, respectively, of the Statutes of Canada for 1935.

Unemployment Insurance and Employment Service

The Employment and Social Insurance Act, after various recitals, including the recital that Canada was a signatory as part of the British Empire to the Treaty of Versailles, and including references to various articles of the Treaty and a recital that it is desirable to discharge the obligations thereunder to Canadian labour and for that purpose to provide for a national service and insurance against unemployment, proceeds in five Parts. The first Part establishes a Commission to administer the Act and to submit proposals to the Governor-in-Council for the assistance, by way of providing unemployment insurance and otherwise, of persons not within the application of the Act or not presently entitled to its benefits. Part II provides for the organization of an employment service for the Dominion of Canada, including the establishment of regional employment offices, the gathering of employment statistics, and for assisting by loans the movement of unemployed persons to places where work has been obtained for them. Part III provides that all persons sixteen years of age or over engaged in specified employments are to be insured against unemployment; the funds to be obtained by three way contributions from employer, employee and the Dominion Government; and that unemployment benefits are to be paid to insured persons from the funds so constituted, under certain conditions of unemployment. Part IV provides for the assembling and dissemination by the Commission of information relating to group plans of providing

collectively or cooperatively, by insurance or otherwise, for medical and dental services, health and accident insurance, and for the Commission to advise and report upon any such proposed plans. Part V is general and relates to such things as regulations and reports.

It is generally recognized that a system of unemployment insurance is necessary to the continued social security and well being of the workers of the Dominion of Canada, and it is believed that any such scheme to be effective must be national in character. Any system of unemployment insurance not national in character would tend to restrict the liberty of movement and employment of industrial workers within Canada and, by establishing self-contained provincial units, restrict, at times, labour adjustments that might take place were labour forces permitted to function throughout Canada as a single unit without restrictions as to Provinces. It is conceivable, too, that under any other than a national scheme, the levies upon industry might so differ from one Province to another as to put the industries, or particular industries, in a particular Province at a disadvantage as compared with those of other Provinces. Upon the establishment of State schemes of unemployment insurance in some of the States of the United States of America a few years ago, it was the experience that in practice the workings of various of the schemes were seriously impaired by pressure brought upon the authorities administering the schemes by particular interests anxious that the products of industries within such States should not, by reason of the levies under the schemes, suffer in competition with products of industries of other States. Under a national scheme, on the other hand, the levies would be standardized, consideration at the same time being given the ability to pay, and it is assumed that care would be taken to avoid placing any industries at a relative disadvantage.

It may be pointed out that the Province of Nova Scotia does not stand to benefit from a scheme of unemployment insurance to the same extent as do others of the Provinces. In the first place, it is conceived that during the primary years at least, benefits from unemployment insurance will be confined almost wholly to the manufacturing industries and the following table indicates a comparison of the percentages of the value of the net production in the manufacturing industry to the total net production of each Province for the year 1934:

Prince Edward Island,	6.25
Nova Scotia,	22.27
New Brunswick,	28.96
Quebec	49.49
Ontario,	48.17
Manitoba	29.59
Saskatchewan,	8.49
Alberta	11.34
British Columbia,	23.10
Canada,	39.18

To illustrate, the net production of the manufacturing industry in Prince Edward Island in 1934 was 6.25% of the total net production of that Province. The figures are from The Canada Year Book, 1937, page 220.

Coal mining, one of the major industries of this Province, does not lend itself to complete cessation of activity in slack periods, but because of the necessity of mine maintenance its operation in general tends to revert to fewer days work per week rather than to undergo entire suspension, and for this reason the workers in this industry are less liable to receive benefits from unemployment insurance than those in many other industries. In view, however, of the generally accepted need of unemployment insurance and the view already expressed that a scheme to be effective ought to be national, it is not felt that one Province ought to dwell too much upon the fact that it will not benefit by such a scheme in the same proportion as other Provinces, or for that reason to oppose provision being made for establishing a national scheme by transferring exclusive legislative jurisdiction over unemployment insurance to the Dominion Parliament. At the same time, the fact that the different Provinces stand to benefit in varying degrees should be taken into consideration and compensation made in other respects, and such a consideration would be a proper one for the Federal Grants Commission recommended to be established in an earlier Proposition to have in mind in determining the amounts of grants or subsidies.

The matter of employment service is closely related to the matter of unemployment insurance and should come under the same legislative jurisdiction.

Maximum Hours of Labour and Weekly Rest.

The Limitation of Hours of Work Act was passed as Chapter 63 of the Statutes of Canada for 1935. After reciting the signing of the Treaty of Versailles and other circumstances leading up to the passing of the Act, it goes on to provide in effect and with qualifications (broadly speaking) that in certain specified industrial undertakings no person shall permit any person to work for more than eight hours in the day and forty-eight hours in the week.

The Weekly Rest in Industrial Undertakings Act is Chapter 14 of the Statutes of the same year. After a similar recital it provides in effect and with qualifications (broadly speaking) that the whole of the staff employed in specified industrial undertakings shall be granted by the employer in every period of seven days a period of rest comprising at least twenty-four consecutive hours.

The matters of maximum hours of labour and weekly periods of rest, are so-closely allied to the matters of unemployment insurance and employ-

ment service, that it is conceded that with proper safeguards, but only with proper safeguards, exclusive legislative jurisdiction in these matters may be vested in the Dominion Parliament. It is recognized that standards in these matters ought to be established, and it is appreciated that such standards not only ought to be uniform in so far as is possible, but ought to be uniform in their incidence in respect of cost upon the different sections and industries throughout Canada, having in consideration ability to pay. It is, therefore, submitted that the vesting of legislative jurisdiction over these matters in the Dominion Parliament ought to be upon the condition that ample provision is made for the full protection of local and particular interests and for safeguarding the rights of particular industries in particular sections of the country. Such safeguards, it is suggested, might be imposed by making obligatory under any scheme of regulation to be adopted, the establishment and maintenance of regional boards or by such other means as may be decided upon by agreement between the Provinces and the Dominion. It is recognized that there would be objections to provincial schemes to regulate these matters, of a nature similar to the objections against provincial schemes of unemployment insurance. It is conceivable, for instance, that provincial schemes might tend to be impaired by pressure brought to bear upon local authorities administering such schemes to ameliorate regulations in order better to permit the products of such Province to compete with those of another Province, and that even where no deliberate attempt was made to do this, a local administration might be handicapped by the ever present fear of putting industries within that Province at a relative disadvantage by increasing the costs of production. It is, therefore, conceded that if proper safeguards can be imposed and maintained, Dominion regulation of these matters would be preferable to individual regulation by each of the Provinces.

The Present Constitutional Situation

The present situation in respect of legislative competence to deal with unemployment insurance, maximum hours of labour and weekly rest will now be indicated.

Unemployment Insurance.

The constitutional situation in respect of insurance, including the more restricted field of unemployment insurance, may best be appreciated by considering very briefly four cases which were decided in the Privy Council between the years 1881 and 1937. The first of these cases is *Citizens Insurance Company of Canada vs. Parsons*, (1881) 7 Appeal Cases, page 96. The Statute there in issue and of which the constitutional validity was impeached was an Act of the Legislature of the Province of Ontario designed "to secure uniform conditions in policies of insurance." This Statute provided certain statutory conditions that were to be print-

ed upon the policies and to have effect unless expressly varied by the parties. The statutory conditions covered such matters as the conditions of the liability of the insurer in cases of double insurance; and the conditions of the liability of the insurer resulting from loss while certain dangerous substances were on the premises insured. The decision of the Judicial Committee of the Privy Council was delivered by Sir Montague Smith, who said in effect that the Ontario Act related to the subject of property and civil rights within the Province under Section 92 (13) of the British North America Act and that it did not come within the regulation of trade and commerce under Section 91 (2) of the Act, which heading would include political arrangements in regard to trade requiring the sanction of the Dominion Parliament, the regulation of trade in matters of inter-provincial concern, and perhaps the general regulation of trade affecting the whole Dominion but that it did not include power to regulate the contracts of a particular business or trade, such as the business of fire insurance in a single Province. The other grounds of the decision are not material to this discussion.

In 1916 in the case of *Attorney General for Canada vs. Attorney General for Alberta*, 1916 1 Appeal Cases, page 588, Sections 4 and 70 of the Insurance Act, 1910, (Canada) were considered by the Judicial Committee of the Privy Council. The former Section provided in effect that no person or company should carry on an insurance business in Canada without a license; the latter Section provided penalties for violations of Section 4 and other Sections. The Court was asked to decide whether these Sections were *intra vires* the Dominion Legislature and whether Section 4 affected a foreign corporation doing business in only one Province. The decision of the Privy Council was delivered by Viscount Haldane, who said in effect that the authority given the Dominion Parliament under Section 91 (2) of The British North America Act does not extend to the regulation by licensing of a particular trade in which Canadians would otherwise be free to engage in the different Provinces; nor was such legislation supported by the general words at the beginning of Section 91 which authorized the Dominion Parliament to make laws for the peace, order and good government of Canada in relation to all matters not coming within the classes of subjects by the Act assigned exclusively to the Legislatures of the Provinces; the rest of the decision is immaterial to this discussion.

In 1932, in the case, *In Re The Insurance Act of Canada*, 1932 Appeal Cases, page 41, the Privy Council was called upon to examine Sections 11, 12, 65 and 66 of the Insurance Act, being Chapter 101 of the Revised Statutes of Canada for 1927, and Sections 16, 20 and 21 of the Special War Revenue Act, being Chapter 179 of the Revised Statutes of Canada for 1927. Section 11 of the former Act provided in effect that no Canadian company, or alien, whether a naturalized person or a foreign corporation, should, except as provided in the Act, carry on the busi-

ness of an insurer in Canada without a license, and Section 12 provided that a British company or British subject not resident in Canada should not, except as provided in the Act, migrate to Canada to carry on such a business unless under license. Section 75 and Section 66 prescribed penalties.

The decision of the Privy Council was delivered by Viscount Dunedin, who referred to the words of Viscount Haldane in the case last referred to, to the effect that the Dominion has authority by properly framed legislation to require a foreign company to take out a license to operate even in one Province of Canada, but went on to say that "under the guise of legislation as to aliens they", (the Sections of the Insurance Act under discussion), "seek to intermeddle with the conduct of insurance business, a business which by the first branch of the 1916 case", (*Attorney General for Canada vs. Attorney General for Alberta*, 1916, 1 Appeal Cases, 588), "has been declared to be exclusively subject to Provincial law", and that as regards British subjects, who could not be styled aliens, this was not properly framed law as to immigration but an attempt to saddle British immigrants with a different code as to the conduct of insurance business from the code which had been established to be the only valid code, that is the Provincial Code. As to the Sections of the taxing Statute which purported to tax insurers in Canada who insured with British or foreign companies or underwriters not licensed under the Insurance Act, or with extra-Dominion associations formed for exchanging mutual insurance contracts and not licensed under the Act, His Lordship said that it was insurance legislation under the guise of taxing legislation and therefore *ultra vires* the Dominion Parliament.

It would fully appear from the foregoing that the business of insurance, in the words of Viscount Dunedin, "has been declared to be exclusively subject to Provincial law".

The last case to be referred to is *Attorney General, Canada, vs. Attorney General, Ontario, et al, Reference Re Employment and Social Insurance Act*, 1935, 1937, 1 Dominion Law Reports, page 684, the decision of the Judicial Committee of the Privy Council being delivered by Lord Atkin. In this case the constitutional validity of The Employment and Social Insurance Act, being Chapter 38 of the Statutes of Canada for 1935, was considered.

Lord Akin, after remarking that the substance of the Act was found in Part III, said that there could be no doubt that *prima facie*, provisions as to insurance of that kind, especially where they affected the contract of employment, fell within the class of property and civil rights in the Province; that as to the argument that on the ground of the special importance to Canada of unemployment insurance at the time and some time before the passing of the Act, the provisions were justified

by the general words of Section 91 of the British North America Act, the same reply was applicable as in the Reference of the three labour Acts (The Minimum Wages Act, The Limitation of Hours of Work Act, The Weekly Rest in Industrial Undertakings Act) was made to the argument that those Acts could be so supported; and that moreover the present Act did not purport to deal with an emergency but its operation was intended to be permanent. As to the argument that it could be supported under Section 91 of the British North America Act, Classes 1 and 3, which relate to the public debt and property and the raising of money by any mode or system of taxation, he said that, assuming the Dominion to have properly collected a fund by taxation, it by no means follows that any legislation which disposes of it is necessarily within Dominion competence since it may still be legislation in pith and substance affecting the classes of subjects enumerated in Section 92, and if so it would be *ultra vires*; and that in pith and substance, the Act under examination was an insurance Act affecting the civil rights of employers and employees in each Province and as such was *ultra vires* the Dominion Parliament.

Maximum Hours of Labour and Weekly Rest

Legislation purporting to deal with these matters comprised part of the labour legislation which was referred to the Supreme Court of Canada for an opinion upon its constitutional validity. The decision of the Supreme Court of Canada was appealed to the Imperial Privy Council. The decision of the Supreme Court of Canada may be found reported in 1936, 3 Dominion Law Reports, page 673, *sub nom Reference Re Weekly Rest in Industrial Undertakings Act, Minimum Wages Act and Limitation of Hours of Work Act*, and the decision of the Privy Council may be found reported in 1937, 1 Dominion Law Reports, page 673, *sub nom Attorney General, Canada vs. Attorney General, Ontario, et al, Reference Re Weekly Rest in Industrial Undertakings Act, Minimum Wages Act and Limitation of Hours of Work Act*.

In the Reference to the Supreme Court of Canada of this labour Legislation, these three Acts were dealt with together. In the Supreme Court of Canada they were held to be *intra vires* the Dominion Parliament by the Chief Justice, Mr. Justice Davis and Mr. Justice Kerwin, but *ultra vires* by Mr. Justice Rinfret, Mr. Justice Cannon and Mr. Justice Crockett. On appeal to the Privy Council all three Statutes were held to be *ultra vires* the Dominion Parliament and the judgment of the Judicial Committee was delivered by Lord Atkin.

In argument before the Privy Council, it was sought to uphold the validity of the legislation by showing it to be treaty legislation in respect of which the Dominion Parliament derived competence from Section

132 of The British North America Act. It was sought to uphold it under the general words of Section 91 of that Act according to the principles which the Chief Justice of the Supreme Court of Canada considered had been laid down in the commonly called "Radio Case", which is reported *sub nom Re Regulation and Control of Radio Communication, Attorney General, Quebec, vs. Attorney General, Canada, et al*, 1932, 2 Dominion Law Reports, page 81. It was sought to uphold it otherwise under the general words of the said Section 91 as a matter that had ceased to be merely local or provincial and had become a matter of national concern, relying upon the words of Lord Watson already referred to in this Submission in the Proposition dealing with "Marketing", and which are as follows:

"Their Lordships do not doubt that some matters, in their origin local and provincial, might attain such dimensions as to affect the body politic of the Dominion, and to justify the Canadian Parliament in passing laws for their regulation or abolition in the interest of the Dominion. But great caution must be observed in distinguishing between that which is local and provincial, and therefore within the jurisdiction of the provincial legislatures, and that which has ceased to be merely local or provincial, and has become matter of national concern, in such sense as to bring it within the jurisdiction of the Parliament of Canada."

The judgments of the Privy Council and of the Judges of the Supreme Court of Canada are of very great interest and importance and deserving of intensive study by all lawyers interested in this phase of constitutional law, by officers of the Dominion Government having to do with the execution of treaties or conventions between Canada and other countries, and by others. We are not, for the purposes of this discussion, interested in the fact that the respective conventions, in pursuance of which the Statutes were passed, were held not to be within the application of Section 132 of The British North America Act, nor with the refutation of the view of the Chief Justice of the Supreme Court of Canada, Sir Lyman P. Duff, which he had based upon the "Radio Case" that "The Jurisdiction of Parliament to enforce international obligations which are not strictly 'treaties' within Section 132" (of the British North America Act) "is coordinate with the jurisdiction under this last named section." Even if the legislation had been upheld under Section 132 or upon the authority of the "Radio Case," it would be absolutely unsatisfactory to have further legislation of this type dependent upon the existence of international conventions. We are to some degree interested in the fact that it was held that the subject matter had not reached that degree of importance and urgency from a Dominion-wide standpoint that might perhaps take it out of the Provincial field and place it in the Federal field, as had become the subject matter of the Statute construed

in the case of *Fort Frances Pulp and Paper Company vs. Manitoba Free Press Company*, 1923, 3 Dominion Law Reports, page 629. What we are chiefly interested in, however, is the preliminary admission that the subject matters of the three Statutes are ordinarily within exclusive provincial jurisdiction. Witness the words of the Chief Justice of the Supreme Court of Canada at the bottom of page 674 of Volume 3 of the Dominion Law Reports for 1936:

"The immediate question put in the precise form is this: Is the statute which, by its preamble, recites the adoption of the draft convention by the General Conference of the Labour Organization and the ratification of that convention by Canada, constitutionally effective, without the assent of the Provinces, to alter the law of these Provinces by bringing that law into conformity with the stipulations of the convention so ratified; the matter of these stipulations being, *ex hypothesi*, normally, (and saving certain specific fields of legislation with which we are not concerned) a subject matter of legislation within the exclusive competence of the respective provincial Legislatures under s. 92 of the B. N. A. Act?"

And witness the words of Lord Atkin on page 674 of Volume 1 of the Dominion Law Reports for the year 1937:

"It was admitted at the bar that each statute affects property and civil rights within each Province; and that it was for the Dominion to establish that nevertheless the statute was validly enacted under the legislative powers given to the Dominion Parliament by the B. N. A. Act, 1867."

As has already been indicated the Judicial Committee of the Privy Council confirmed the view that the subject matters of these three Statutes were *intra vires* the legislative competence of the Provinces and *ultra vires* the legislative competence of the Dominion.

By way of recapitulation it may be said

(a) that the matter of unemployment insurance, and the matters of maximum hours of labour and weekly rest, are within Provincial legislative competence and *ultra vires* the legislative competence of the Dominion Parliament;

(b) that for the reasons given throughout this Proposition, this Province is willing, subject to adequate safeguards being determined, that these matters be transferred to the legislative competence of the Dominion Parliament;

(c) and that to effect this transfer, an amendment would have to be made accordingly to the British North America Act, 1867.

Ninth Proposition

To concede to the vesting in the Parliament of the Dominion of exclusive and effective jurisdiction to impose succession and death duties and income tax if a mutually satisfactory arrangement to this effect can be reached between the Provinces and the Dominion.

Under Class 3 of Section 91 of the British North America Act, the Dominion Parliament has power to raise money by any mode or system of taxation, but it is likely that even under this broad power the Dominion, if it sought to levy succession or death duties in the manner in which they are levied in some of the Provinces, might run into constitutional obstacles in respects important to the efficient enforcement and collection of such taxes; for example, it is submitted that the Dominion Parliament could not make the payment of the death duty a condition precedent to the passing of the property upon the death of the deceased person, because this would be an encroachment upon the power given the Province to legislate exclusively in respect of property and civil rights within the Province under Class 13 of Section 92 of the British North America Act. Aside from this, the proposal, it will be noted, is not to enable the Dominion to enter this field of taxation upon an equal basis with the Province, but for the Province to retire altogether from a field of taxation heretofore relied upon by all of the Provinces and exclusively occupied by them, in favour of the Dominion. It is appreciated that the recommendations that are being made for the transfer of responsibilities and services to the Dominion Parliament together with the further grants or subsidies, that are being asked for by the Provinces in respect of their fiscal needs, will necessitate on the part of the Dominion new sources of taxation and the Province therefore offers to abandon this field in the Dominion's favour.

In the same manner and for the same reasons, it is proposed for the Province to withdraw entirely from the field of income tax in favour of the Dominion.

It has already been pointed out in this Part that in a number of respects these taxes could be administered more uniformly and perhaps more economically by the Dominion than they can be administered individually by the Provinces.

PART III.
FINANCIAL

CHAPTER 1

HISTORICAL.

After a lapse of seventy years a Commission has been appointed to provide for a re-examination of the economic and financial basis of Confederation and of the distribution of legislative powers in the light of the economic and social developments of that period. From time to time since 1867 conferences of representatives of the Dominion and of the Provinces have met to consider the financial and other relations existing between the Dominion and the several Provinces. Any matters of difference that have arisen during the greater portion of that period have been adjusted by conferences of the representatives of the governments affected. Financial arrangements have formed the major subject for discussion, and, until the appointment of the Royal Commission on Maritime Claims in 1926, no previous studied consideration had been given to the distribution of the functions of governments and their effect upon the progress or otherwise of the constituent elements of the Dominion.

Notwithstanding the fact that Section 118 of the British North America Act, 1867 had stated that the grants made to the Provinces were to be in full settlement of all future demands on Canada, the first revision granted to Nova Scotia as a result of the negotiations of 1869 dealt exclusively with the financial arrangements of the Federal constitution. The active steps taken by the first legislature of Nova Scotia after Confederation for a repeal of the Union resulted in a refusal by Imperial authorities to give any consideration to that method of allaying the complaints of Nova Scotia. They stated they would not be warranted in advising the Imperial Government to reverse a great measure of State attended by so many extensive consequences already in operation. The Secretary of State for the Colonies, the Duke of Buckingham and Chandos, wrote to the Governor General of Canada that the magnitude

of the interests at stake rendered it a duty not to shrink from examining fully the grounds of the complaints which had been adduced; and, if it should prove that some of them were mistaken, and others removable, he indulged the hope that a different view of the subject would be ultimately taken. In dealing with the complaint that Confederation would in its results be prejudicial to some of the special interests of this Province the Duke of Buckingham stated:—

“Her Majesty's government feel that they need only draw the attention of yourself and your government to the point raised in the address relative to taxation, the regulation of trade, and the fisheries, as they are confident that it will be equally the wish of your government and of the Parliament of the Dominion to relax or modify any arrangements on these subjects which may prejudice the peculiar interests of Nova Scotia, and of the Maritime portion of the Dominion. No doubt it can be entertained that the Parliament of the Dominion will be fully alive to both the justice and the expediency of consulting all the various interests of the territory over which its jurisdiction extends.”

It was most unfortunate that the liquidation of these Provincial grievances was thought at that time to have been arranged by a revision of the financial provisions of the Federal constitution. The special subsidy for a ten year period afforded slight immediate relief to the Provincial Treasury, though the larger subjects of taxation, trade policy, and fisheries which had been placed in the foreground of the movement for repeal, were completely ignored.

There may have been plausible explanations for this omission. The tariff, while higher than the pre-Confederation tariff, was still a moderate one. Little opportunity had been given to study the effect of union upon the important fisheries of Nova Scotia. Further, the hope of a reciprocity agreement with the United States had not at that time receded and that was regarded as a factor of vital importance in the relation of the Province to trade policy and the fisheries. This “Better Terms” agreement on the debt settlement and subsidy served to focus attention on the less important aspects of the claims presented by Nova Scotia.

That special arrangement by which Nova Scotia received an additional yearly allowance of \$82,689 ceased in ten years. A small additional amount came to this Province in the following years in connection with debt allowance increases which were applicable to all Provinces, and were made to recoup Ontario and Quebec for deductions from subsidies for the excess of debt assumed by the Dominion of Canada under Section 12 of the British North America Act.

When it was revealed by a census of 1881 that Nova Scotia's population had exceeded 400,000 the subsidy grant then became fixed at 80c per head on that population of 400,000, and so remained for twenty-six years till the general revision in 1907, notwithstanding that our population had in the meantime increased. This revision was brought about as a result of the Dominion inter-Provincial conference at Ottawa in 1906. Parliament approved of the new schedule of payments—still, however, on the population basis—and an amendment of the British North America Act was passed by the Imperial Parliament in 1907 to effect this purpose. Under this enactment, in addition to an increased fixed grant for government, the amount of 80c per head was thereafter paid to Nova Scotia on the basis of the actual population instead of the previously fixed population of 400,000.

The first attempt to give consideration, other than financial, to the relations existing between the Provinces and the Dominion was made in 1926 by a Commission appointed by the Government of Canada. The Right Honourable W. L. MacKenzie King, Prime Minister of Canada, wrote to the Chairman, Sir Andrew Rae Duncan, and members of the Maritime Royal Commission advising them that they were asked to undertake a task of national importance in enquiring into Maritime Provinces grievances. The Commission was to interpret its instructions and its duties in no narrow sense, but to take every opportunity for fullest and frankest discussion of the economic difficulties facing that part of the Dominion, the efforts which had been made to overcome them, the causes of any short-comings in these enquiries, and the most effective and practicable remedies.

As a result of the findings of the Duncan Commission some of the serious grievances which the Maritime Provinces had placed before the Commission were adjusted, and the long standing financial disability in which these Provinces had been placed was somewhat alleviated by the interim subsidy award paid by the Dominion Government and its confirmation and increase by the White Commission.

But, while acknowledging this debt of gratitude, it is necessary to point out omissions made in the investigations and reports of these Commissions. They failed to enquire into Federal trade policies and various other matters affecting the economic welfare of this Province and its relation to the Dominion of Canada. It is not necessary at the present time to traverse the reasons given for the failure to investigate thoroughly the economic problems affecting the Maritime Provinces further than to say that this major field of economic enquiry was left untouched until the appointment by the Government of Nova Scotia in 1931 of a Commission consisting of Professor J. H. Jones of Leeds, England, Alexander S. Johnston, Esq., C. M. G., of Ottawa, and Dr. Harold A. Innis of Toronto.

That Commission enquired fully into the effect of the fiscal and trade policies of the Dominion of Canada upon the economic life of this Province, into the adequacy of the then existing financial arrangements between the Dominion of Canada and the Provinces in the light of the powers and obligations of the Dominion and the Province respectively under the Federal constitution, and into other matters affecting the economic welfare of Nova Scotia and its relation to the Dominion of Canada.

I am happy to be able to present to you the report of this Commission and the appendices containing studies dealing with the economic life of this Province in its relation to the Confederation, and I trust that they may be of some value in elucidating the problems you have undertaken under the terms of your Commission. There will be as well available to you the submission made on behalf of the Government of Nova Scotia and prepared and presented by Norman McL. Rogers, a distinguished son of this Province.

As previously stated, we have regarded it as unfortunate that in dealing with maritime claims to relieve disabilities no consideration was given to the economic factors affecting the life of the people of these Provinces. Your attention is called to the concluding paragraph of the report of the White Commission, in which it is said:—

“In concluding our Report we deem it advisable to say that in reaching our conclusions we have endeavoured not to be influenced by conditions in the Maritime Provinces due to the present world depression in which all the Provinces of Canada have shared, nor by a comparison of grants made for relief purposes by the Dominion to the several Provinces, because such conditions are common to all and in some present more acute problems for temporary assistance than in others. We have dealt with the claims presented to us on the evidence of specific facts pertinent to the subject-matter of our inquiry and of long-continuing conditions peculiar to the Maritime Provinces and not common to the other members of Confederation.”

We have accepted the award made by the White Commission implementing the judgment of the Duncan Commission as an endeavour to settle long outstanding grievances and inequalities with respect to the subsidy arrangements existing between the Provinces and the Dominion. We have not accepted it as the final settlement of the fiscal relations that now exist nor have we regarded it as a full settlement of all future demands. We feel that in the light of the development which has taken place in the last seventy years in the different standards of living and in the application of these standards to the people of today, the

time has come for a review of all these inter-acting factors in determining the relations between the Provinces and the Dominion of Canada.

I desire to state to this Commission, as I stated to the White Commission, that that Commission could only by the terms of its appointment deal with the recommendations of the Duncan Commission for a determination and assessment of the actual amounts to be awarded to this and the other Maritime Provinces to meet recognized genuine claims for readjustment of financial arrangements between the Dominion and these Provinces.

* In endeavouring to sum up Nova Scotia's case to the White Commission, I stated that it could be reduced to a series of five propositions:—

“Our first proposition is that the Duncan Report contemplated an upward revision of the money grants now being made to Nova Scotia. I do not need to elaborate in any way upon that.

Proposition No. 2 is that the history of previous financial arrangements between the Dominion and the provinces of Canada indicates that fiscal need has been in most cases the dominating factor. In some of these cases the assistance given by the Dominion was not stated to be on the ground of fiscal need, but in reality fiscal need was the principle upon which the Dominion acted, and was the factor taken into account at Confederation.

The third proposition is that fiscal need exists in Nova Scotia today for the following causes:

- (a) The proportion of our subsidy has dropped;
- (b) because of the poverty of our people, who, judged by almost every test, are the poorest in Canada, and consequently the least able to pay taxes to the province;
- (c) because our sources of provincial revenue have been impaired;
- (d) because of the effect of the tariff policy of Canada on the people of Nova Scotia.

Our fourth proposition is that, alternatively, if Nova Scotia is not entitled to consideration on the ground of fiscal need, she is entitled to compensation because of the debt allowance granted to other provinces. And the fifth proposition is

that Nova Scotia is entitled to favourable financial consideration because new lands have been given to certain other provinces. In certain cases subsidies were given in lieu of lands and then the subsidies were continued after the lands were given to the particular provinces. In other cases, lands belonging to the Dominion as a whole were granted to certain provinces. In such cases the actual and potential wealth of the provinces concerned has been increased by these acquisitions of lands, and the rights of the remaining provinces have been disregarded.

I should like to say one other thing. I do not believe that subsidies are enough. I agree entirely with the argument of Nova Scotia's counsel before the Jones Commission that subsidies are not enough. What we need in Canada is a general revision of the British North America Act, especially with regard to financial arrangements between the Dominion and the provinces. That cannot be done in a day or a week or a month. It is a matter for one or two years. Consideration should be given not only to what ought to be done in the way of money grants but how the whole field of taxation should be allotted; what services should be taken over by the Dominion and what by the provinces, and what services that are now being performed by both the Dominion and the provinces should be definitely assigned to one or the other, in order to prevent that duplication and overlapping of services which we have in many cases today, notably in the departments of Agriculture and to some extent in the departments of Health. I repeat, then, that subsidies are not enough. This Commission is bound, however, by the terms of its reference to do what it can towards making now the reassessment contemplated by the Duncan Report."

"Now, I do not associate myself with the statement that was made some time ago by one of the provincial representatives, to the effect that if we are given a favourable settlement here we shall never be back. I intend to come back, and I intend to keep on coming back until the whole matter of the relations between the Province of Nova Scotia and the Dominion is settled equitably and fairly, and until Nova Scotia is given some chance, which I think she does not now enjoy, to live her life as she should live it on a basis of equality with the other provinces. I cannot do any better than read something which I prepared before in a submission to the Jones Commission. I endeavoured there to review something of the history of Nova Scotia, and I finally said this:

'Sometimes, in a remote section of country, the way-faring traveller comes suddenly upon the remains of a town or village which once knew prosperity but for a variety of

reasons has fallen behind in the march of progress. Its fate is written on its deserted streets, its unpainted houses, its abandoned farms and factories. It has accepted its sentence and has sunk below the margin, so to speak, of the current standards of economic advancement. It is to avoid such a fate as this that Nova Scotia seeks redress for its disabilities. And it bases its claims on the principle that a federation defeats its primary purpose if, through its constitutional arrangements or by policies instituted by the national government, it accomplishes the debilitation of one or more of the political communities of which it is comprised.' "

It is very desirable, therefore, that at the outset it should be understood that the submission of the Province of Nova Scotia on all matters which come within the purview of this enquiry, will present arguments and considerations that will be applicable alike to all the Provinces of Canada. The principles to be followed in the relation of one Province to another and with the Dominion must be broad enough to give the proper recognition which both the Dominion and the Provinces in their respective jurisdictions exercise within the realm of the federation. Claims there will be, but it is hoped that some machinery may be devised as a result of the findings of this Commission that will enable some speedy adjustment to be made of the problems that from time to time arise in the progress of the Dominion.

CHAPTER 2.

FISCAL NEED THE DOMINATING FACTOR IN FEDERAL SUBSIDIES.

In respect of the financial arrangements between the Dominion and the Provinces, detailed reference has been made in the submissions of this Province to the Duncan Commission, and to the White Commission, as well as in the submission made to the Jones Commission, all of which are available for your consideration and study.

When the Fathers of Confederation adopted the equal per capita subsidy principle as the means of compensating the Provinces for the complete surrender of the taxing powers by way of customs and excise, it was necessary to decide upon the amount to be granted. A Committee composed of the Finance Ministers from the various Provinces was formed and after the whole list of expenditures had been carefully examined, removing all unnecessary services and reducing items of expenditure to the lowest possible figure, the total Federal subsidy necessary to supplement Provincial revenues was found to be equal to eighty cents per head of the population. This amount, supplementing their territorial and other revenues that had been left to the Provinces, would, it was thought, enable the Provinces to discharge satisfactorily the functions of government allotted to them under The British North America Act. In other words, it was the fiscal needs of the Provinces as set up which determined the amount of the per capita grant. The attempt to make this a final settlement gave no consideration to the urgent demands which modern conditions would impose upon the Provinces in the way of education, hospitals and charities, the administration of justice, and other expenditures of a local and necessary character. In fact, fiscal need was the principal consideration in the arrangements with the new Provinces, though interest on debt allowances was thrown in to make up the totals required.

Fiscal need has also been the primary justification put forward for most revisions since 1867 in favour of individual provinces, and in 1907 of the provinces collectively.

The first revision occurred in 1869 in the grant of Better Terms to Nova Scotia. John Rose, the Minister of Finance to whom was referred for report the claims of the Province, found that "the local sources of revenue at present possessed by Nova Scotia are inadequate to carry on the services devolving on the Province." To meet the case, he recommended an additional special subsidy on a per capita basis equivalent to that of New Brunswick, estimating that this would enable the Province to carry on its services on a "moderate but efficient footing" without resort to direct taxation.

On four separate occasions (1875, 1879, 1882, 1885) Manitoba's subsidies were increased, obviously because of fiscal need, though in each case lip-service was paid to the rule of uniformity of treatment by increasing arbitrarily the population base for subsidy payments. A special subsidy in lieu of land was also granted and the lump-sum subsidy increased to make up the required amount for the conduct of government.

On the other hand, during the same period frequent pleas of need were advanced by the Maritime Provinces and Quebec, but without success, though special treatment was accorded New Brunswick and Prince Edward Island on other grounds. Indeed on more than one occasion the Dominion Government affirmed that fiscal need, even if proven to exist, did not constitute a right to subsidy increases. It held that the rule of uniformity of treatment was paramount, and that additional subsidies granted to one would need to be extended in proportion to all Provinces. But the rule of uniformity did not prevent special treatment first of Nova Scotia, then of Manitoba, while the rule was only colorable and not real in the case of the newer Provinces.

In the general revision of 1907 fiscal need was clearly the starting point from which subsidies were worked out. Sir Wilfred Laurier, in justifying the figures agreed upon in the conference which preceded the request of the amendment of the British North America Act, spoke as follows,—

"Why was the basis fixed in 1864 for the allotment of 80 cents? I have searched for the reason, and the only one I can find is this, that a calculation was made by the Minister of Finance of the various provinces according to the statement by Colonel Grey, by Mr. Brown, by Dr. Tupper, by Sir Leonard Tilley, by Mr. Shea and others, and they came to the conclusion that this would be a fair basis upon which to meet the wants of the provinces. That was their judgment, and in 1906 we took as a basis of judgment of the ministers of the several provinces assembled with us, who told us that, according to their experience, this was the amount they needed in order to carry on their public affairs. They had no other basis than that."

The subsidy arrangements of 1907, for the first time since 1867, brought fiscal needs relatively within a formula of uniformity. Lump-sum subsidies and per capita subsidies were done away with and provisions made for automatic increases for all Provinces on a sliding scale in proportion to their populations. But here again fiscal need defied uniformity of treatment, Prince Edward Island and British Columbia being accorded more favourable treatment than other Provinces because of their peculiar difficulties. Prince Edward Island, it was said in Parliament, "had not profited by Confederation."

Without going into any further particulars, the fact that fiscal need has been a dominating factor governing revision of subsidies will be borne out by reference to the more than twenty-five instances since Confederation when "better terms" have been granted. Many details of these are to be found in the Submission made by the Government of Nova Scotia to the Duncan Commission, pp. 1-105, and in the Submission of the Government of Nova Scotia to the Jones Commission, pp. 3-33, and Chapter XIV, pp. 158-196.

Finally the Duncan Commission on Maritime claims expressly recognizes fiscal need as a paramount consideration. It admits claims to compensation for unequal treatment as compared with the western Provinces, but the more important consideration is obviously fiscal need. It recommends immediate interim payments because of the "present state of grave necessity" of the Maritime Provinces. It estimates that "these payments, also, will enable the provinces to undertake the more extensive program in relation to agriculture, colonization, education and other spheres of administration, which, they represented to us, they were precluded from undertaking now because of the inadequacy of their assistance from the Dominion Government."

It should be stated that this view was stressed in the presentation of the case of Nova Scotia to the White Commission, though Counsel for the Dominion Government placed before the Commission the statement that fiscal need and unequal prosperity were not admissible as grounds for additional subsidies:

"The proposition that fiscal need of any province is a basis for the granting by the Dominion of subsidies to the government of that province, and the proposition, necessarily closely connected therewith, that it is a function of the Dominion Government to maintain as nearly as possible equality of prosperity between the provinces, at least in so far as that prosperity depends upon Dominion Government activities and expenditures, are inadmissible and should not be accepted by this Commission, for a number of reasons, the more important of which may be summarized as follows:

- “(a) These propositions are contrary to the constitutional principles of Confederation;
- “(b) From the point of view of scientific government they are unsound and highly undesirable;
- “(c) The objectives contemplated by these propositions are impossible of fulfilment, even in a broad general way;
- “(d) The present Commission could not properly consider these propositions as regards only three of the provinces, as even if these propositions were admissible it would be necessary to deal with them as regards all the provinces and not only as regards certain of them.”

Counsel elaborated this view, and submitted data at some length alleging the repugnance felt by the Dominion Government to any departure from the principle of equality of treatment and its refusal to accept fiscal need as the basis for granting of subsidies. I quote further:

“The fact that Canada is a confederation and that by its constitution the functions of government are divided between the Dominion on the one hand and the respective provinces on the other, each being sovereign and independent within its own sphere, makes it quite clear that the makers of that constitution did not propose to adopt the unscientific theory that the Dominion Government should be required to provide by means of money grants for the fiscal needs of any of the autonomous states within the confederation; in other words, to make up by means of grants the deficits of the various provinces; nor the equally unsound theory that the Dominion Government should be required to preserve equality of prosperity among the provinces.”

It was further alleged by counsel for the Dominion that the basing of subsidies on fiscal need was unsound because it would obviously be an incentive to extravagant spending on the part of the recipient governments. Further, it was stated that the proposition presented by Nova Scotia should be rejected because of the impossibility of its fulfilment.

Now, while the White Commission recognized the claims of Nova Scotia and based them “upon broad and general considerations of fairness and equality having regard to the treatment enjoyed by the Provinces under the same headings and to the economic disadvantages to which the Maritime Provinces are peculiarly subject, owing to their isolated geographic position” the majority report rejected fiscal need as a basis upon which subsidy adjustments should be made, and stated:—

"With reference to this theory of "fiscal need" as a compelling ground for increased subsidies from the Dominion Treasury when the condition of any Province "has become sufficiently exigent," it must be admitted that as a matter of fact financial necessity has lain at the basis of most, if not all, of the revisions and special grants of subsidies to Provinces since Confederation. In the case of the first members, financial necessity on the part of one or more has induced the Dominion, however unwillingly, to come to their relief, and make some further provision in amelioration, for the time being. As new Provinces were admitted, provision had to be made owing to the necessity of ensuring that they would be possessed of revenues adequate to discharge the legislative and administrative functions assigned to the Provinces under the terms of the Constitution. That this object was accomplished in guise of grants "for the support of Governments and Legislatures," "in aid," or as "debt allowances," or, "special circumstances" is not of moment. No doubt endeavour was always made to exhibit uniformity of treatment under these headings, but the object was to supply such a reasonable measure of assistance to the Provinces so dealt with as to enable them to carry on the functions of Government. But while all this may be admitted, we do not think that a policy which has prevailed whereby certain Provinces in financial distress from time to time have been aided to a limited extent by the Dominion, should be deliberately adopted as a rule of action generally applicable in the matter of the financial arrangements between the Dominion and the several Provinces. To do so would inevitably lead to conditions harmful and dangerous in the extreme to both the Dominion and the Provinces themselves. A rule or practice whereby the Government of a Province, supreme within its own jurisdiction and not subject in its financial administration to supervision by the Dominion Parliament would be authorized or permitted, as a matter of course, to demand from the Dominion Treasury any sums necessary to meet recurring deficits, could only lead to disastrous results, encouraging Provincial governments to disregard sound principles of administration, and making the Dominion responsible for, so to speak, underwriting Provincial expenditures over which it could exercise no control whatsoever. It is a sound general principle, under our constitutional system, that the Governments of the Dominion and of the several Provinces should be held strictly responsible to their respective electorates for the conduct of their administrations. Responsibility must go hand in hand with authority. Power to spend must entail responsibility for expenditures."

The majority of the White Commission stated that as a result:—

“The Government of the Dominion would have to sit in judgment upon the questions as to whether the Provincial administration had or had not been economical; whether or not a Provincial Government had exhausted all available sources of revenue; and whether all the functions which it was exercising were necessary in the degree to which they were being exercised.

“Upon these different questions there is room for serious differences of even impartial opinion. Under our political system, from which the spirit of strong partisan bias can never be wholly excluded, grave abuse through favouritism towards individual Provinces and consequent discontent on the part of other Provinces whose Governments were not so favourably regarded would surely follow the acceptance of even this modified test of “fiscal need” in the case of Provinces seeking further subsidies in aid from the Dominion Treasury. It must also be borne in mind that what might appear even to the taxpaying public of a Province as economical administration in a period of abundant revenue might transpire in the light of a subsequent period of depression to have been the very opposite of economical. In a period such as the first mentioned, the Dominion Government, even if convinced that the Provincial administration in question was laying, by its expenditures, the foundation for subsequent acute financial distress, would have no power to exercise any measure of supervision and control.

“When any Province is in such a necessitous condition, with its own credit exhausted, it is, of course, proper for the Dominion Government, if it deems the maintenance of Provincial credit to be of national importance, to come to the aid of that Province by way of a guarantee of its temporary borrowings or of a direct loan to be repaid with interest as soon as, by reason of improved conditions or of economies effected by the Province, its credit has been restored and it is thus enabled to extricate itself from its financial difficulties. But this is quite different from saying that, in such a case, the Dominion should assist by voting a special subsidy in aid, because such a subsidy is a gift and not a loan and would be provided at the expense of all the people of Canada and not solely by the people of the Province in question. For the foregoing reasons we feel obliged to reject this proposed test of “fiscal need” and proceed to consider upon other grounds the claims of the Maritime Provinces for increased subsidies under the caption to this section.”

This dictum of the White Commission is quoted at length because at a later stage in this submission it will be shown that the objections raised to the test of fiscal need are not insuperable and may be overcome in a federacy, even if "the spirit of strong partisan bias" is too prevalent, as is alleged. It should be stated that the Honourable Chief Justice Mathieson, a member of the White Commission, recorded his dissent from the foregoing conclusions.

The fact that frequent subsidy revisions have been necessary for this Province and for others, is evidence of the changing social philosophy and the changing centre of gravity in the Canadian economy during the last seventy years, a changing condition which was required to be met whether "fiscal need" is or is not one of the determining factors in the solution to be arrived at. These combined changes have put new burdens on the Provinces as a whole, and at the same time affected their relative ability to meet their increased responsibilities. Whether the original coat was well tailored is not to the point; the boy has outgrown it.

The principle of fiscal need has run through Dominion-Provincial relations for long, though never definitely accepted. If it were accepted and if this Commission were able to secure a formula to embody the principle, then the resultant payments to Provinces would allow for their inequality of advantage from national policies, their differences in natural resources, etc. All these factors which cannot be measured singly, can be considered in their total effects on the Provinces. Payments to Provinces on the basis of fiscal need would take account of all factors affecting the Provincial economic position. And if a formula were found to express this need, subsidy payments would become automatic.

If fiscal need were acceptable as a basis for Dominion subsidies, and if a satisfactory formula were found, it would not follow that Provinces could spend as they pleased, and then show need. The 'fiscal need' system requires austerity in application, and Provinces must show that they are not extravagant, that they are not trying to perform services in advance of other Provinces, and that they are levying on their people a fair burden of taxation. The two latter requirements can be readily tested by audit, but in order to show that they are not extravagant, Provinces may have to be willing to subject their expenditures and taxes to the sifting of some appointed tribunal or board. In Australia, where this method of fiscal need is used, the Commonwealth Grants Commission makes detailed investigation of the States' accounts.

The Grants Commission, in the first year that it met, recommended grants for the claimant states for 1934 and 1935 so that they might function with reasonable efficiency at about the standard of the other States, and determined those special grants on the basis of financial needs.

That operative principle, tentative at first, was confirmed in the Commission's second report with this conclusion, "that the relative financial position of the States when analysed with sufficient care and understanding was the only basis on which special grants should be made."

Further consideration and another year's experience led the Commission to the following conclusion, set forth at paragraph 164 of the Third Report:—

"Special grants are justified when a State through financial stress from any cause is unable efficiently to discharge its functions as a member of the federation and should be determined by the amount of help found necessary to make it possible for that State by reasonable effort to function at a standard not appreciably below that of other States."

In Chapter VI of the Third Report the Commission very fully sets forth the reasons why they arrived at that conclusion. To the argument that extravagance is encouraged it is stated: "Such a condition of financial ease makes extravagance possible, but the same possibility is open to any unitary Government. The safety in all constitutions lies in a due dependence of those who administer them upon the people."

In the earlier stages of the Australian confederation the central government raised revenue by customs and excise, transferring the surplus to the State governments. This state of affairs came to an end in 1914 when the war imposed heavy burdens upon the Commonwealth; thereafter grants were made on the basis of 25 shillings per head of population and were fixed upon no definite principle. Australia's Commission says, paragraph 171, Third Report:—

"The population basis has no outstanding claim except that it is simple and along the line of least resistance. It does, in fact, give some help to States where incomes are lower, and consequently public finance more difficult. There is no reason why transfers, if they are to be made, should not be adjusted so as to give more weight to the relative financial position of the States."

The government of Australia found, as was found in Canada, that a population basis for grants did not and could not in its very nature suffice and new devices were conceived, such as Federal aids to roads, etc.

The weaker position of some of the States being recognized, the Commission then states definitely, paragraph 174, Third Report:—

"We would determine special grants, therefore, by a strict measure of financial needs. The necessity of special grants

arises from two different considerations. The financial scheme of the Commonwealth coupled with certain economic causes tends to produce inequalities as between the States, and where these are sufficiently severe some States find it impossible by their own efforts to discharge their functions with reasonable efficiency. In such circumstances there is a case for rectifying the inequalities. States may also become so embarrassed financially by various causes, apart from the operation of federation, and sometimes by their own faulty policy, that they are unable properly to discharge their functions to their citizens of the Commonwealth. Whenever they are in this position we say that special grants should be made, and should be determined by the amount of help found necessary to make it possible for the State by a reasonable effort to function at a standard not appreciably below that of other States. Thus we base special grants on needs."

"That it can hardly be disputed that needs, when interpreted with due austerity, are one sufficient cause for grants, though there may be others. The law of self-preservation is fundamental. A federation lives only while all its constituent governments live. If one of the governments becomes, or threatens to become, unable for financial reasons to discharge its proper functions adequately, it is a first necessity for the federation to give such help as will make it possible."

After three years of work a second Grants Commission was appointed in Australia containing a majority of new members. This Commission, while free to consider new issues, accepted the principles previously formulated, and with respect to financial needs stated that after some years of consideration the possible grounds for special grants were reduced to two main categories, one, the ground of needs, and the other, the ground of disabilities, and stated:—

"The measure of the grant on the basis of need would be the amount necessary to relieve the financial difficulties of the State, having regard to all the circumstances. But no State ought to be put in a better position than other States; and, therefore, the average financial position of all the States has to be ascertained and a fair standard fixed in respect to that average. The grants should be sufficient to enable the State in difficulties to function at a standard not appreciably below that of other States. If a State is making every possible effort to retrieve its position and still cannot pay its way, it should receive a special grant which would enable it to achieve a balanced budget, or, exactly to come as near a balance as other States."

In presenting its argument before the White Commission the government of Nova Scotia justified its claim for reassessment of the subsidy arrangements, not only upon the ground of fiscal need, but upon that of compensation for impairment of resources of Provincial revenue.

This is in reality a corollary of the fiscal need basis, as it is obviously impossible, apart altogether from other considerations, for the Province to meet its financial obligations in respect of the matters under its control if the sources of its Provincial revenue are being impaired by any influence outside of its own authority or jurisdiction.

In several instances the Dominion has added to the subsidies of certain Provinces on the alleged ground of compensation for impairment by the Dominion of the sources of Provincial revenue. Thus when New Brunswick gave up its right under the British North America Act, 1867 to levy export taxes on timber because of the Treaty of Washington which prohibited such taxes on American timber transported down the St. John River, the Dominion compensated New Brunswick by a special subsidy of One Hundred Fifty Thousand Dollars. This was evidently far in excess of the revenue obtained by New Brunswick from this source. Moreover, the Province was at the time clamouring for additional subsidies, especially the continuance of the ten-year special grant made at Confederation. Thus fiscal need, rather than compensation, appears to have been the real factor determining the amount of subsidy.

Again, on the admission of the western Provinces, Saskatchewan and Alberta, compensation for lands retained by the Dominion was given the Provinces on a graded scale in proportion to their populations. As indicated above this was merely one of the ways in which the financial needs of the new Provinces were met. A similar arrangement was made for British Columbia for loss of railway lands, and for Manitoba in 1885. In all these cases the measure of compensation was obviously need, not damages.

Yet although the measure of compensation adopted at the outset was need, not damages, the principle that compensation was due has been admitted throughout. Sir Wilfred Laurier said in defending the government's policy in retaining control of the western lands:

"But I frankly admit, and we must all recognize, that the Provinces in the west, in being deprived of the public lands, are deprived of a valuable source of income.

"And in that way they complain that they are put on a footing of inequality as compared with the older Provinces of the Dominion. Realizing that fact, it is the duty of Parliament

to make ample, even generous, provision which will compensate the Provinces for the retention of the lands by the Federal Government."

In the settlements negotiated in 1930 with the western Provinces for the return of their lands, the principle of compensation for impairment of the sources of revenue is clearly recognized. The agreements negotiated with the three Prairie Provinces provide that they shall be put on an equal footing with other Provinces as regards the administration of their lands and natural resources as from their entry into federation. They provide also for the continuance of subsidies originally granted for the loss of lands and in addition for an arbitration commission to decide what financial readjustments should be made.

The Natural Resources cases of the three Provinces, Manitoba, Saskatchewan and Alberta, appear to have established the principle that a Province has a constitutional right to adequate compensation for impairment of its normal sources of revenue by the Dominion. It is significant that in all these cases the Dominion was acting within its proper legal powers. It was clearly valid to deprive New Brunswick of its right to levy export taxes by reason of the fact that Parliament in so doing was performing its treaty obligations as part of the British Empire under section 132 of the British North America Act, 1867. It was clearly within the jurisdiction of Parliament to retain the western lands for administration by the Dominion. Title to these lands had passed to the Crown in right of Canada with the acquisition of Rupert's Land, and Parliament had full power to create new Provinces therein and to provide for their constitution and administration.

Some of the factors contributing to financial difficulties in the State and therefore causing financial need, are shown to be a policy of the central State bearing heavily on the industry of a particular State. A loan expenditure incurred in the past may now be unprofitable, whether from original errors of judgment or from the effect of price changes in the world at large. Extravagances in administration or social services may have added to the dead-weight debt. Natural resources may become depleted or perhaps be relatively inferior to those of other States. Through a changed world demand, resources once valuable may become for the time non-productive. A striking example of a declining industry in Nova Scotia is afforded in the dried fish trade.

A Province or State in financial difficulties due to these causes should be placed in a position to enable it by "reasonable effort" to retrieve its position. Objection is made that such a principle when applied may encourage bad finance, perpetuate inferiority and lead to the decay of independence and sense of responsibility of the State or Province. The Australian Commission says "we do not think that the first part of this charge has any substance."

The procedure set up to determine the standard and apply the principle involves an annual review of the State finances and a close comparison of their various activities and costs. The Third Report says, para. 182:—

“Governments are thus in a position to know far more of the comparative costs of State functions than they did before. This knowledge and the publication of the details should stimulate better financial practice and a better system of accounting. To this end a uniform method of presenting accounts would also contribute”

As already stated the Government of Nova Scotia is firmly convinced that some practicable method of study must be devised in respect of the various operations of the various governments of Canada. The aim is to arrive at a fairer apportionment of the whole financial resources of the Dominion. Responsibility is impaired if a government has too much or too little for its essential needs. One leads to extravagance, the other to inefficiency and drift. A fair submission of the total resources is the true method of obtaining responsibility in each government.

The principle of fiscal needs having been accepted as a basis of adjustment of differences in the Australian Federal system after the most careful consideration and analysis, there is no reason why in Canada every effort should be made to conceal the fact that fiscal need has been the determining factor as shown in practically all subsidy re-allocations.

If it is practicable in Australia to work out a standard of grants on this basis it is equally practicable to do so in Canada, but a more satisfactory formula must be found than has heretofore been applied in this Dominion. Such a method would seem best calculated to recognize the different Provincial requirements arising out of their respective places in the federation, their volume of resources, etc.

The implication in the claim for an adjustment of subsidies on the ground of fiscal needs is that there will be an inequality of treatment in dealing with certain of the Provinces of Confederation. The fixing of a per capita basis of subsidy arrangement at Confederation was an attempt to deal with all on an equal basis. The experience of the Province under Confederation shows that this attempt has been from time to time thwarted and the Provinces have been dealt with quite differently. In fact, in the presentation of the case for Nova Scotia to the Duncan Commission a genuine claim for re-adjustment of financial arrangements was made in respect of debt allowances and in respect of territorial limitations because of inequalities and resultant injustice to the Maritime Provinces thereunder. The verdict of the Duncan Commission was that

consideration should be given to these facts in considering any re-adjustment of the subsidy. It is desirable to say then that, while not stressing unequal treatment as a present factor to be determined in making concessions to this section or that section of the country, equality of treatment given as a basis of settlement of financial questions in 1867 was over-ruled in the Act itself almost immediately in the case of New Brunswick and as an inducement to Newfoundland to enter the Confederation; and again it was over-ruled for Prince Edward Island and British Columbia in 1907. Inequality was frequently the cause of complaint from the Provinces for better terms. In the case of the western lands, while not admitted as a ground for changing the regular subsidies, it was used to give the western Provinces the same subject matter for revenue purposes as the older Provinces, namely, their natural resources.

On the other hand, the rule of equality has been invoked by the Dominion on more than one occasion to deny revision in favour of particular Provinces, though that has not deterred revision on the ground of need or special treatment whenever occasion demanded. Indeed the principle of inequality and precedents of special treatment have been quoted both by the Dominion and the Provinces as suited the particular case in hand.

Further, the rule of equality seems to have been clearly repudiated by all the Provinces when, on motion of the Ontario and Quebec representatives, the Interprovincial Conference of 1926 passed the following resolution unanimously:—

“Resolved that this Conference expresses its sympathy with those Provinces, which, by reason of conditions peculiar to them, have not progressed as anticipated, and urges upon the Federal Government that it should favourably consider affording relief to each of such Provinces in a form that will ameliorate these conditions.”

This resolution being brought to the attention of the Duncan Commission strengthened in their view the conclusions arrived at.

There should, therefore, be nothing sacrosanct about the rule of equality. Nor would it appear that any formula of equality can be worked out so long as the needs and problems of the different Provinces vary so greatly. As already stated, fiscal need rather than equality is obviously a sounder principle for subsidies, and one more supported by precedent, though it may be more difficult to apply in practice.

During the economic depression through which we have passed a vital change appears to have entered the financial relations between the Provinces and the Dominion. Widespread unemployment, the rising

costs of relief administration, the fall in prices, and the diminishing income of the Provinces made impossible in the early months of the depression the performance of their obligations to their respective peoples. In a special Parliamentary session in 1930 the Dominion came to their aid by passing an unemployment relief act. The preamble is significant:

"Whereas unemployment, which is primarily a provincial and municipal responsibility, has become so general throughout Canada as to constitute a *matter of national concern*, and whereas it is desirable that assistance should be rendered...."

Among other means of relief it is provided that the Governor-in-Council may grant aid to any Province or municipality in any public works it may undertake for the relief of unemployment. Subsequent relief acts have also stressed the national interest in assisting the Provinces in the matter of unemployment and farm relief.

The position of the Dominion in the matter of relief aid to the Provinces was set forth by the Prime Minister, the Right Honourable R. B. Bennett, as follows:—

"Now we endeavoured in 1930 and again in 1931, to keep that clear line of demarcation before us and to point out that there was not such a national emergency, in the sense in which that term is used in the judgments of the privy council, as to warrant the exercise by this parliament of the powers conferred upon the provinces. There is no power, for instance, as I read the judgments or as I understand present conditions in Canada, to enable this parliament to seize upon or take from the provinces the powers that are conferred upon them. They must still function as provinces; they must still discharge their constitutional obligations and duties; they must still meet the situation as it arises. But in view of the *national character of the unemployment problem, national in the sense that it extended from one end of the Dominion to the other*; in view of the acute difficulties that were occurring in one province of the confederation by reason of three successive crop failures, it became apparent that this Dominion, through the federal parliament, should intervene; and the method by which that *assistance could be given was to supplement and assist the provinces in the discharge of their constitutional obligations.*"

Again writing to the Prime Ministers of the western Provinces Mr. Bennett declared:

"The whole basis of our assistance to the provinces for unemployment and farm relief is founded upon the belief that the

governments of the Western Provinces would discharge their constitutional obligations and that the *Dominion in the national interest should support and supplement the work of the provinces in the discharge of their duty.*"

But the national interest in the fiscal conditions of the Provinces was advanced a step further in 1932 when the Dominion advanced, by way of loan, interest due on the bonds of the western Provinces. Said Mr. Bennett in defending the action of the government:

"Now I ask the chamber and particularly the honourable members opposite if they have any complaint to make with regard to the manner in which we have met those responsibilities. We found every one of the four western provinces, for reasons which I shall not discuss, unable to secure money with which to discharge their obligations in New York. Were we to let those provinces default or were we to lend them the necessary money with which to meet their obligations? Is there any honourable member who will stand up in his place and say: "You should let them default." That is the problem which confronted us—default or a loan.

"Is there any honourable member present who would suggest that we should have chosen the former alternative and not the latter? While some honourable members may suggest that it is undesirable to make advances to the provinces under the conditions that prevail, there is no member sitting either to the left or to the right of the Speaker who does not realize the fact that if any province, however small, wherever located, defaulted, this would injuriously affect the credit of Canada as a whole, and what is more, adversely affect beyond any words that I might use, the future of the people of this country."

It is noteworthy that in coming to the assistance of the Provinces in meeting the burden of unemployment and farm relief, the old principle of equality of aid in proportion to population has been thrown overboard. Where the Province was able to bear its share of the burden, federal assistance was extended in proportion to provincial expenditures. Where the province was quite unable to bear its share, as in the case of Saskatchewan, aid was frankly on the basis of need alone.

The position taken by the Dominion that it is under obligation in the national interest to come to the aid of the provinces in the matter of unemployment and farm relief and in supporting their credit has wide implications. It is conceivable that the Provinces might have been able to meet the problem of unemployment relief, and the western Provinces the interest on their debts had they sufficiently curtailed, or dropped com-

pletely certain other functions of government and concentrated their financial resources on relief and interest payments. But the Dominion did not require them to do so before coming to their aid. Dominion aid thus enabled the Provinces not only to meet the extraordinary burdens of unemployment relief; indirectly it enabled them to carry on their normal functions of government. Indeed the inference is that the Dominion expected them to do so. The Dominion thus tactily recognized its responsibility for enabling the Provinces to fulfil not only extraordinary but ordinary functions of government.

And it is submitted that this is a sound interpretation of the constitutional obligations of the Dominion toward the Provinces. Under our federal system the Provinces have obligations to perform which cannot be performed by the Dominion. Yet their performance is of vital importance not alone to the people of the Province but to the nation as a whole. If the Provinces fail in their constitutional duties the nation as well as the people of the Province suffer. It is the responsibility of the Dominion that they have the financial resources to perform their obligations whether extraordinary obligations, or the more normal obligations of government. Their fiscal needs are but a measure of the national interest.

It is submitted further that the conditional subsidies granted from time to time to the Provinces, as for example, those on highways construction, technical and agricultural education (since withdrawn), and old age pensions, are an implied recognition both of the national interest in the performance of Provincial functions and of the need of the Provinces. While these subsidies were at the outset a matter of grace, and not of right, it is significant that they were not granted indiscriminately, but in these cases for specific purposes, and usually on certain pre-determined conditions. The inference is that the Dominion considered it in the interest of the nation as a whole that these functions should be performed, and that, being constitutionally unable to perform the functions in question itself, there was no assurance that they would be performed at all, or if performed would be properly performed, by the Provinces unaided.

The old age pensions legislation illustrates this national interest in performance by the Provinces of their functions. While urging old age pensions for humanitarian reasons, the Right Honourable W. L. MacKenzie King, then Prime Minister, justified the Bill of 1926 on the ground of national interest. He declared:

"Human beings are the greatest of the resources of this country. What we are considering is human life. An individual, no matter which Province he is in, is an asset to the Dominion as a whole, and it is from that point of view that the Dominion is, I think, considering this matter"

The Act of 1931, which increased the Dominion's share for pensions, expressly refers, moreover, to the Dominion's interest therein. The preamble inter alia states:

"And whereas it is desirable and would be *of advantage to the Dominion* to augment the national contributions" (to the Provinces,)

In both instances the government of the day, while deprecating the method of subsidies, submitted that there was no alternative without amendment of the federal constitution to achieve the national aim, the Provinces being generally unable or unwilling to supply unaided a system of old age pensions themselves.

It is, further, not without significance that in the *Old Age Pensions Act* the Dominion has thrown overboard the principle of grants in proportion to the population, a new method of aid in proportion to Provincial expenditure for the number of people eligible being adopted instead. This method may or may not meet Provincial need, but it emphasizes that in this instance at least, the old principle of grants in proportion to population is unworkable.

The experience of Nova Scotia, and indeed of Canada, with respect to conditional subsidies has not been very fortunate. These subsidies were regarded doubtless as a partial compensation to the Provinces for the appropriation by the Dominion of the elastic source of revenue provided by the income tax, which had been appropriated by the Dominion for the purpose of meeting its war obligations. Their effect was also to postpone for a time due consideration of subsidy arrangements and operated meantime to appease agitations for better terms. When the grants were for a fixed term of years, which was the principle adopted in the Highways Act, the Agricultural Instruction Act, and the Technical Education Act, the Provinces found themselves at the end of the period with an expensive establishment which they were obliged to maintain thereafter out of their own revenues.

Take for example, the Agricultural Instruction Act of 1913 which encouraged some of the Provinces to establish expensive agricultural schools. When the special subventions came to an end in 1923 these Provinces were faced with necessity of maintaining the institutions already established and enlarged. A similar situation was created by the Technical Education Act, though under that Act Nova Scotia failed to reap the benefits which other Provinces enjoyed. A pioneer in that policy, to the extent that her expenditures were made before the Dominion Act became effective, Nova Scotia was penalized for this heroic venture. A like situation was involved in the special provisions for highways construction.

Behind all these measures for conditional subsidies, however, there appeared to be a definite policy of establishing common standards throughout all of the Provinces,—a desideratum of great importance and involving a new measure of federal responsibility. Certainly, almost irresistible inducements were offered by the Dominion government to the various Provinces to accept the contingent subsidies on the terms proposed. Where grants in aid were given to activities already carried on by the Provinces, there was some compensatory advantage, but these grants were largely for new activities to be undertaken and so financial difficulty was felt in the Provincial arena.

Moreover, behind these measures there was also the assumption that the Provinces were capable of assuming their respective shares of the expenditures on these services which were required in order to take advantage of the Federal subsidies. The differences in the taxable capacity of the various provinces were not given any serious consideration.

All of these measures for indirect subsidies payable by the Dominion to the Provinces for a fixed term, have expired and have not been renewed. The result has been that the Provinces have been left with increased expenditures and imperative demands to continue along policies which they had not necessarily initiated.

The conditional subsidy method, therefore, does not provide the solvent for the financial relations between the Dominion and the Provinces and generally speaking has complicated the situation.

CHAPTER 3

OPERATION OF FEDERAL POLICIES AS AFFECTING TAXABLE CAPACITY OF PROVINCE

The history of the subsidy revisions suggests two points which must be stressed:—

(1) The securing of appropriate financial relations between the Dominion and the several Provincial governments is not simply a matter of redistribution of unconditional subsidies. Certain circumstances in the Canadian economic structure—some inherent (like the distribution of natural resources), others superimposed (like national policies)—create disparities in development as between the regions of this country. Subsidy revisions in the past have ameliorated, but have not removed, the disabilities suffered by Provincial governments in the less favoured areas. And so long as wide disparities exist between regions, affecting their relative standards of living, and their relative profitability for private enterprise, the fundamental disequilibrium remains, and creates, among other things, economic retardation and general budgetary difficulties in the unfavoured regions.

(2) It is difficult to measure statistically the extent to which national policy has affected the relative development of different regions, and to “compensate” them accordingly. The national policies have had time to sink into the Canadian system, and their indirect effects are now as extensive and as penetrating as their direct effects. Thus, for example, if one region has enjoyed special benefits of protection, that factor would directly stimulate its protected trades, and these in turn would give stimulation to its consumption trades. This reciprocal process has indirect beneficial effects on behaviour in the region, raising general expectations as to its future, and influencing the flow of labour and capital in its direction. In regions adversely affected by national policies, the reciprocal process acts downwards, and there it is equally difficult to measure the effects of national policy, because these effects cannot now be segregated from the heterogeneous elements in the various regions.

In the submission to the Jones Commission it was distinctly recognized that an exact calculation of the gains and losses under the protective tariff was rendered impossible by the lack of statistical detail. Any exact measurement for example, of the enhanced prices paid by consumers in any one Province, as a result of the protective tariff, would require accurate and detailed information as to the consumption of a wide classification of manufactured goods in that province. It would also require accurate and detailed information respecting the prices at which these goods were sold to consumers in that particular Province, as compared with the prices at which they could be imported if the protective duty were removed. That information in the detail desired was not available, but the impossibility of obtaining an exact measurement of the incidence of the tariff was declared to be no reason why an attempt should not be made to secure an approximate result within the range of statistical knowledge.

These circumstances suggest that an equitable adjustment of financial relations between the Dominion and the Provincial governments would have to be related closely to the economic conditions that now exist in the various regions. These conditions are determined by natural as well as by imposed factors. So far as economic disparities are due to imposed factors, like the national policy, there is a case for tempering the results of this discrimination by readjustment of the financial relations between the Dominion government and the governments of the less favoured areas. So far as economic disparities are due to differences in natural resources as between regions, there arises the question as to how far the welfare of every section of Canada is the obligation of the federation as a whole. In discussions of Dominion-Provincial relations in the past, the principle has been definitely expressed that the welfare of the federation as a whole was the obligation of all Provinces, and that it might require sacrifice from some of them. "The overriding necessities of the Dominion Government" were given in 1877 by the Dominion Minister of Finance as the reason for refusing to continue the additional subsidy granted to Nova Scotia for ten years under the "Better Terms" agreement of 1869. But, overriding interests, however great, do not justify a disparity in treatment to a Province and the undermining of its basic economic interests to be followed by social consequences of a grave character.

The inverse of this principle, namely, that the welfare of every section is the concern of the whole federation, seems equally fundamental. Accordingly, if any region suffers economic retardation, whether through inadequacy of resources, or through burden of national economic policy, there seems to be an obligation on the whole federation, for its own good, to maintain the solvency of the disturbed region, and to help to promote within it those conditions that will allow it to contribute, rather than to detract, from the welfare of the whole federation.

The Duncan Commission in prefacing its report stated the aspects which must be borne in mind when examining what can be done to give the Maritime Provinces their rightful place in a prospering Dominion, and stated:—

“We believe that the claims which these provinces have submitted in connection with the present condition, and the future possibilities, of their own part of the Dominion, should now be reviewed with sympathetic consideration and understanding, so that in approaching the future a better balance of territorial prosperity can be assured, and the original hope of Confederation—unity, prosperity and contentment for all the provinces, as well as for the whole of Canada—can be made capable of realization.

And, again, dealing with Trade Policy, the Commission states:—

“Anxiety indeed was shown both by official government witnesses, and by the very numerous trade and other independent witnesses we heard lest, in a solution of their difficulties we stopped short of considering the other aspects that arise from the character of their natural basic products, namely, agriculture, fish, timber and coal. In our view, no greater dis-service could be done than to evade deliberate decision on subject matters that lie at the very foundation of the economic prosperity of these provinces.”

Further, dealing with the question of mutual trade treaties for Forest Products and Fish:—

“We do not see that there can be any prejudice to broad Dominion interests by the Federal Government giving specific consideration to this proposal. Further, we feel that in broad Dominion interests a matter which so vitally affects basic products that are of a paramount importance to the Maritime Provinces must be looked at quite definitely and specifically with a view to a deliberate decision being taken. We recommend, therefore, that the Dominion Government should apply its mind to the proposition in the light of Maritime Province interests, and having regard also to the position of other provinces concerned with these same products, and to Dominion interests generally.”

And, though the White Commission deemed the scope of its enquiry to be limited to the matter of revision of financial arrangements, the Commission showed that the earlier thought that the interests of the Dominion were paramount could not today be applied, but that “special

wants and interests", referred to by the Duke of Buckingham, of the Maritime Provinces should be given consideration.

"The broad economic problems of the Maritimes like those of the other Provinces are for the Government and Parliament, to consider and deal with. Increase of money grants to individual Provinces will not alone bring about prosperous conditions within their areas although it may indirectly assist by promoting, through educational and public welfare services, economic efficiency or by reducing taxation within the Province and thus lessening the burden upon trade and industry.

"We are in accord with the claim of the Maritime Provinces and with the finding of the Duncan Commission that these Provinces have not shared proportionately with the other provinces of Canada in the economic advantages accruing to the Dominion as a whole from Confederation and in our recommendations have taken it into account as one of the most impressive elements in their case for more favourable financial arrangements."

The Jones Commission, appointed distinctly to consider the relations of Nova Scotia with the Dominion and the general effect of Federal policies on Provincial economic development, emphasized throughout the whole of its report that, as was expressed by Premier Taschereau of Quebec at the Dominion-Provincial conference in 1927,—

"To have a happy and prosperous Canada, there must be happy and prosperous Provinces, and the latter could do more for Canada than could the federal authorities. The Provinces were more in contact with the people, educating them, building their roads, and looking after their health. The Provinces enacted compensation laws in favour of workmen and had control of the judicial machinery."

Dr. Innis likewise stated in his complementary report:—

"We are convinced from a wide variety of evidence that the trend toward centralization in railways, banking, finance and industry tends to become less efficient in relation to the outlying areas and must be offset by a definite reversal in terms of developmental policy. Increasing centralization must be offset by increasing devolution, if the more distant regions are to guard effectively their interests. No Province has been exposed more directly to the effects of the National Policy and no Province deserves more careful consideration as to a policy of development.

"As Confederation tended to contribute to the disunity of Nova Scotia so a strong developmental policy would contribute to the establishment of unity. The Federal Government could not ask a greater sacrifice of a province and it cannot refuse sympathetic consideration to measures which will involve a restoration of unity.

"It may be urged that centralization of policy in the Dominion is in the best interests of the Province rather than devolution and lest we should be misinterpreted it should be said that we are favourable to centralization as to matters of co-ordination and we regard the Federal Government as becoming, to an increasing extent, a clearing house as to matters of general policy—a clearing house which can effectively be used with control over funds. On the other hand, we have been forcibly struck with the callousness, lack of sympathy, and general disregard of broad policy, which has characterized federal supervision."

And Dr. Innis concludes his study of conditions in this Province thus:—

"The extent to which the Federal Government should assist the province in a developmental policy will vary with economic conditions and with the success of such a policy. No attempt is made to consider the extent of support in terms of a uniform policy in relation to all the provinces. The problems of each province or region differ materially and the amounts which should be paid to each province will differ materially. In an economy such as Canada, emphasis should be placed on flexibility. Rigidities incidental to the tariff, railway rates, prices of manufactured products, interest rates, debts and subsidies, should be offset to the greatest possible extent, by provisions making for greater flexibility. As far as possible the province should control and direct its services, in co-operation with the dominion, with a view to the greatest possible efficiency. The co-ordination of activities within the province, along the lines suggested throughout the report and co-operation with the federal government is an ideal to which the Province and the Dominion should aim. Coordination of the activities of the Government of the Province should facilitate steps in the direction of coordinating the activities of the government of the Dominion. Compensation is not enough."

For the reasons, therefore, already given, it appears that the search for an equitable financial scheme for Canada as a whole, would have to take cognizance of the economic conditions in different areas, the comparative standards of living, the comparative expectations as to

future development, the comparative need for certain services, or if one measure alone be taken, the comparative income possibilities and necessary expenditures of the various Provincial governments.

To these conclusions strong support is given by the findings of the Australian Grants Commission which for the past four years has annually reviewed the finances of the Commonwealth and of the States and has awarded to certain claimant States special grants to meet their budgetary requirements. In the Third Report of the Commission, the conclusion which was reached by the Commission when it first met in 1933 was reaffirmed in 1936, paragraph 23:—

“It is impossible in a federation nicely to adjust the functions entrusted to the members to their financial resources, some member may have more financial power than actually needed, and another less. Consequently, some adjustment may have to be made in the form of a redistribution of the revenue from the more favoured to the less fortunate member or members of the union. This must be accounted as one of the weaknesses of federation. It renders it difficult to apply the principle of financial responsibility necessary to sound politics. In a federation each member insists upon pursuing its own policy independently. If the members were prepared to pool their functions and resources they would not federate but form a unitary State. A State which claims to be sovereign should accept the financial consequences of the policy it determines to pursue, and, if it is entitled to call upon another State to assist in bearing those consequences, its responsibility is weakened. Those to whom this principle of responsibility appeals very strongly are inclined to assert that it is a vicious practice for one government to spend what another raises. The considerations we have advanced, however, suggest that this principle is not very applicable to federations. A government is not truly responsible if the normal exercise of its powers gives it more money than it needs, especially if this result is, to an extent, accidental, as in the case of a customs tariff imposed for protective purposes. Nor can the principle of responsibility be satisfactorily applied if governments receive less than they require for their essential needs. In the latter case, services are starved, finances are embarrassed, and drift follows. In the former, governments become extravagant. We, therefore, think that some redistribution of revenue must be accepted as almost inevitable in any federation, and especially at certain stages of development. If the redistribution gives the recipient States considerably less than they require to raise, the principle of responsibility is not seriously affected. Experience supports this view, for in all federations there is, in effect, some redistribution. In other words, as we have said before,

the various members of a federal union cannot operate in separate water-tight compartments, for not only is it impossible nicely to adjust functions to resources in the financial scheme, but for the reasons given in Chapters III and IV various causes tend to make the resources of the various States unequal."

The Commission in these chapters gives the reasons why these causes make the resources of the States unequal. They include problems of State development, such as marginal States having a much more difficult task than the other members of the confederation, the effect of unequal rainfall as a limiting factor in development, the suitability of certain industrial and other agricultural developments to certain areas. They include the policy of protection which was set forth by the claimant States for subsidy as one of their main disabilities. That policy enabled an increase of population to take place, but it tended to localize industrial wealth, and resulted in a clash of interest between claims for the development of primary industry by way of State assistance and of secondary industry by way of tariff protection. A competition arose between these two factors of development each frustrating the effect of the other, and not mitigated by an excessive increase in the tariff of the Federal Parliament. This greatly increased the financial strain on the States, just as within Canada Nova Scotia has been forced to pursue certain policies, to build and subsidize railways for development purposes, these very railways not being recognized until many years after to be for the general advantage of Canada as a whole.

Among the economic factors in inequality is the establishment of a single unit for economic forces leading to a complete concentration of manufactures and financial control, and, therefore, centralizing the population in certain States while other States were specializing increasingly in a type of primary industry to which each was best suited. That concentration of population and of economic power leads again to political control. Inevitably, unless the whole economic policy is well balanced, economic nationalism springs up to be a menace, and inevitably produces innumerable problems. While the economic unit in the modern world tends to become larger and larger, the political economic unit under democratic conditions tends to become smaller. Federation is the device whereby the trend towards the large unit can be compromised or reconciled with the political trend towards the small one. To get effective decentralization the devolved powers must be constitutionally protected and the local authorities must have adequate financial resources and responsibility for their use.

These economic factors produce inequality, the main features of which are the integration of one economic unit with specialization in parts; and the political division into States or Provinces which cuts across the economic unit, but serves the purpose of decentralization, securing a

more just treatment of the outlying parts, as well as a more extensive development of the whole area. But, in these circumstances, the government of the smaller or lesser developed parts finds it considerably more difficult to provide the services required for their people than those of the more highly developed States or Provinces, the taxable capacity of the various units differing.

So, the Australian Commission found that the enquiry suggested the existence of tendencies which had the effect of producing inequalities between States. They were due to the operation of normal and, on the whole, healthy economic forces, but in the result certain States were not well balanced units. Thus, while carrying on the work of the Australian people they had greater financial difficulties than other States. So the Commission concludes this chapter saying:—

“The Commonwealth, if it is determined to preserve the constitution, is bound to prevent a State from collapsing and must give such assistance as will enable that State to give services at a minimum standard. But it is important to realize that the financial difficulties of State may be due, not to their own fault or to sheer financial weakness, but to some cause inherent in the way in which the economy of the Commonwealth has grown—to a development which is favourable on the whole, but occasions difficulties in the finances of certain States.”

The following paragraph (24) might have been written by a Commission dealing with Canadian problems, for it describes exactly the situation in this Dominion:—

“When the Australian Commonwealth Constitution was discussed this problem was envisaged, but all its implications were not developed. The States, up to that time, had relied for their revenues very largely on the Customs, and were still in receipt of returns from the alienation of land. This was a realization of capital, but it was used as income to supplement customs revenue. Direct taxation was, for this reason, small. As internal free-trade was a cardinal feature of the Constitution, it was essential that the customs and excise power should be given to the Commonwealth, and it was seen that the Commonwealth would be in possession of this easily raised and abundant revenue, while the States would be deprived of the revenue they had been accustomed to rely upon. The financial scheme, therefore, had to provide for some redistribution by the Commonwealth to the States.”

The Commonwealth Grants Commission felt bound to enquire whether there was any political or economic cause which worked adversely

to a smaller State or to States in special circumstances. As a result of this enquiry, it was shown that in some federations there was not only an uneven allotment of financial power in the constitution; but, that the conditions of federation tended to produce inequalities as between undeveloped and developed States. To the extent, therefore, that State finance was embarrassed by these causes, special grants were justified as an appropriate method of relief. Such a grant covered the effect of forces arising indifferently from geography, from economic conditions or from national policy, which tended to make it impossible for a State to give its citizens the standard of public service necessary for a State in the Commonwealth. In assessing the force of Commonwealth policy, it was agreed by all parties that the injury suffered by a State through a particular disability must be set off against benefits received by that State through its association with the Commonwealth. In other words, it was net losses or gains which were important.

There was considerable disappointment felt in 1926 that the Duncan Commission had failed to enquire into the incidence of the Canadian tariff on the economic life of the Maritime Provinces. The terms of reference did not preclude an investigation of the effect of the tariff policy of the Dominion upon the Maritime Provinces. Yet it was not done.

The Commission appointed by the Government of Nova Scotia in 1934 was, however, specifically instructed to deal, and its report did deal, with fiscal and trade policies and their effect upon the economic life of this Province. When the re-assessment of the claims of the Maritime Provinces was before the White Commission the effect of fiscal and trade policies was presented in the Government submission as one of its grounds for readjustment of the subsidy arrangements.

Counsel for the Dominion of Canada raised immediate objection to any discussion of this subject, and stated that "even if it could be considered it would be impossible of valuation and the subsidies would not be a proper remedy," and every effort was made to prevent a discussion of this subject before that Commission, one of the grounds being that the White Commission was constituted to deal with certain relations between the Dominion and three only of the Provinces, and the effect of the tariff dealt with a question of national policy which affected the Dominion as a whole.

The Chairman, Sir Thomas White, concurred in the view that the Commission of which he was chairman was not constituted for the purpose of passing upon tariff policy, and, as stated in the majority report, did not bring the effect of the tariff within the range of matters dealt with in adjudging the amount to be awarded to the several Provinces.

The Chairman, however, stated that he was disposed to give a good deal of leeway to the argument of representatives of sovereign governments, and, subject to the objection of counsel, received the presentation of the Nova Scotia Government on tariff policy as one of the grounds which might form a basis for subsidy re-arrangements, though that Commission was precluded from considering it in the assessment to be made.

The Australian Grants Commission did, however, consider the effect of tariff policy, and in their opinion it imposed a severe burden upon the claimant States, though the total net adverse effects on each of these States was very considerably less than the needs of the State, measured from the relative financial position. When it is to be considered that the Grants Commission gave to these three States amounts varying in the four years from £1,200,000 (\$5,835,000) to £1,500,000 (\$7,300,000) in the case of South Australia; £500,000 (\$2,435,000) to £800,000 (\$3,850,000) in the case of West Australia; and £400,000 (\$1,965,000) to £600,000 (\$2,920,000) in the case of Tasmania. it will be seen that the financial needs were measured on a scale far different from the scale which has been applied to the Canadian Provinces.

There these States accepted amounts as the measure of their fiscal needs which were greater than the amounts of their disabilities from the effects of Federal policy. It is obvious then that they were accepting the grant on account of needs rather than on account of disabilities which in turn created the need. But, additional to the claim which a State has when it suffers from any disability or the impoverishment of its resources is the effect on the people of the community. How can these community losses be met? Must they be borne complacently in the interests of the body politic? Is there any method of compensation to come to the individuals in the community themselves?

This Commission, which is to deal with matters arising in the relations of the Dominion and all of the Provinces, will be desirous of knowing the views of the government of this Province with respect to the fiscal policies of the Dominion, and how any of their prejudicial effects may be remedied.

As already stated, the Jones Commission appointed by the Province gave very detailed consideration to this matter and much valuable data is to be found in the government's submission to that Commission as well as in the report of the Commission itself. The Government of Nova Scotia was necessarily handicapped in the presentation of its case because, unlike this Commission, it did not have at its disposal the statistical resources of the Dominion, nor the information which is available to this Commission from Departments of the Federal Government and the several enquiries of the Tarriff Board.

The Government of Nova Scotia places, therefore, before this Commission, as it did before the White Commission, the findings of the Jones Commission. That Commission was instructed to investigate and consider *inter alia* the effect of the fiscal and trade policies of the Dominion of Canada upon the economic life of the Province of Nova Scotia, and the adequacy of present financial arrangements between the Dominion of Canada and the Province of Nova Scotia in the light of the powers, obligations and responsibilities of the Dominion and Province respectively under the Federal Constitution and found as follows, page 69:—

“Whatever special claims may be advanced by particular provinces for financial assistance from the Dominion, it has become increasingly necessary to adapt the financial arrangement between the Dominion and the Provinces to certain important changes that have taken place, under the influence of tariff policy, in the relative taxable capacities of the Provinces.

“The fundamental weakness of the original financial arrangements between the Dominion and the Provinces lay in their assumption that the expenditures of the provinces would be determined in the main by growth of population rather than by the acceptance of new governmental responsibilities. An examination of the increase in provincial expenditure since Confederation reveals clearly that the increasing financial burden of provincial government has arisen chiefly from eventualities that were not foreseen, and indeed could not have been foreseen, by those who framed the original financial settlement. The cost of maintaining the government services is related not merely to the population of a province but also to the degree of government intervention that develops under the influence of changing social and political theory. It is evident moreover that the cost of administration in respect of each of the functions performed by government is relatively heavier in a country with a sparse population and a widely distributed population than in a country in which the population is both large and concentrated. Road construction and the provision of health insurance provide two obvious examples of this general statement. It would appear that these important considerations were disregarded by those who formulated the financial arrangements of the British North America Act in 1867.

“Another weakness of the original financial settlement was the evident belief of those who framed it that the Provinces of the Dominion would equally be able to meet the expanding cost of government through natural expansion of territorial revenues and direct taxation. So far as one can deduce principles from

the compromise arrangements of 1867, it would appear that the one clear principle of the settlement was that the Provinces should receive equal financial assistance from the Dominion, as determined by their respective populations. In other words, the only criterion both of financial need and of capacity to provide that need, was population. It is difficult to find any justification for this assumption. It might have been foreseen that, other things being equal, population was bound to grow most rapidly in those districts that were making most rapid industrial progress, and that therefore the capacity to provide revenue would tend to increase even more rapidly than population. In those regions in which population increased very rapidly, the rapidity of the increase would indicate a greater rate of economic progress. Conversely, in those regions in which population failed to grow, the failure would be *prima facie* evidence of a declining rate of economic progress. That being so, the relative capacities of the different provinces could not be determined solely by reference to population. An important factor was the rate of growth of population. Rapidly growing provinces would be able to contribute revenue increasing more rapidly than the increase in population. For this reason, such provinces would be able with less difficulty to accept the burden of expanding public services.

"This original weakness of the Confederation financial settlement was aggravated by changes incorporated in the general subsidy revision of 1907. In the first settlement the grants made to the larger provinces were stabilized at their existing populations as determined by the last census preceding Confederation. Payments made to Nova Scotia and New Brunswick were to expand with the population only until such time as the population in each case reached a total of 400,000 souls. In the 1907 settlement the grants made in respect of all provinces were to increase indefinitely with population, with the single qualification that the per capita grant should be reduced from 80 cents to 60 cents in respect of population in excess of 2,500,000.

"It is apparent, therefore, that the 1907 settlement repeated and exaggerated the fundamental weakness to which we have referred. It assisted those provinces whose increase in population afforded evidence of economic expansion; it failed to give adequate assistance to those provinces whose stationary or declining population afforded equally conclusive evidence of a failure to maintain a corresponding rate of economic progress.

"The increasing instability of the financial arrangements as established both in 1867 and in 1907 would seem to have afforded conclusive proof of some defect in the principles upon which they were based. This is all the more striking in its significance when it is recognized that on each occasion an attempt was made to stabilize the payments to the provinces and to prevent any further revision in favour of a particular province or group of provinces. The Royal Commission on Maritime Claims recognized the difficulty of the situation and attempted to meet the immediate problem by recommending increased subsidies to the Maritime Provinces by amounts corresponding roughly to the then existing budget deficits of these provinces. It seemed an easy and not inequitable method of dealing with the immediate situation, pending the discussion of the ultimate principles by which allocations should be determined. On the other hand, the Commission did not itself undertake the task of elucidating those principles, so that the problem remained for solution until some other Commission or Committee should be called upon to deal with it as such.

"An objection may be taken to the general analysis of the problem on the ground that the Dominion is under no obligation to recognize and adjust the varying fiscal needs of the Provinces as determined by their relative abilities to meet the expanding costs of public services. This objection can only be sustained, however, on the assumption that the varying degrees of economic progress in the Provinces have not been affected by the operation of the fiscal policies of the Dominion. We are unable to accept this assumption. On the contrary, in our earlier study of the Provincial effects of national economic policies we reached the conclusion that the protection adopted in 1879, and developed in subsequent years, resulted in unequal stimuli to industrial development in the various Provinces of the Dominion. From our observations and study in the course of our enquiry we formed a definite opinion that, on balance, the economic life of Nova Scotia had been prejudiced by tariff policy which at the same time accelerated the economic development of certain areas in Central Canada to which we have already referred."

"In the brief submitted by the Counsel for the Government of Nova Scotia an attempt was made to estimate the distribution, between the Provinces, of gains and losses under the existing tariff. We attach importance to the investigation. The data upon which the statistical investigation was based were so scanty that we are unable to accept the precise measure of the distribution that has been submitted. But the method is one that enables the reader of the brief to understand the

general proportions in which the burden of the tariff is distributed. The importance of the method, which is bound to grow when more adequate statistics become available, has already been recognized in a report of the Committee which, in 1929, investigated the effects of the Australian Tariffs; and we believe that the investigation made on behalf of the Province of Nova Scotia clearly shows that economic progress in that Province has been materially influenced by the tariff policy of the Dominion."

The cumulative economic effects of the tariff have in the course of the years greatly impaired the sources of revenue of the Province and to that extent reacted upon its financial position. As Dr. Harold A. Innis in his complementary report points out at page 207:—

"As a result of decline in the rate of expansion under the National Policy and of the depression, basic industries of the Province have been subjected to difficulties which have weakened their power to support increased taxation, and which have at the same time demanded increased revenue. The burden of the tariff has become more acute and the demands of provincial taxation more pronounced. From this dilemma the Province and the Dominion have no escape under the present fiscal system.

"In Nova Scotia the National Policy has profoundly affected the utilization of natural resources with the result that the Province has been unable to discharge satisfactorily the obligations assigned to it under the British North America Act. The effects have been to the advantage neither of the Province nor the Dominion, and it has been beyond the powers of the Province to ameliorate them.

"The effects of industrialism, under the National Policy, have been traced in the emergence of specialization of industry, and in the problems of the backward regions. The burden of the tariff becomes severe, with decline in expansion and the depression."

And again, at page 218:

"Assuming that the fiscal system of Canada will persist and that the outlying regions must continue to pay the costs of transportation, the problem of compensation remains. Compensation paid by the Dominion treasury in so far as it is paid from revenues secured from the tariff tends to be paid by the region which is injured and so to perpetuate a vicious circle.

The burden of the tariff falls with disproportionate weight on Nova Scotia and compensations tend to be paid for from receipts from the tariff, with protection to Central Canadian industries the trend becomes more conspicuous and Nova Scotia bears a disproportionate weight and pays a disproportionate share in compensation. Protection of Nova Scotia and the Maritimes by the appointment of Federal Ministers of Finance from this region is of slight avail. The extent of the federal debt and its increasing rigidity, the relative disappearance of virgin natural resources and the decline in efficiency of the tariff as an instrument for developing public works on a large scale, the growing inflexibility of the railway rate structure and the end of arbitration awards over provincial lands, suggest that the time has arrived for a revision of the tax structure which will enable the Canadian economy to carry its burden more efficiently. A lightening of the burden to the producer forced to meet more effective competition in a world of economic nationalism, and the formation of a developmental policy in the regions involved, necessitates increasing attention to a more efficient tax system.

"To avoid the tread mill character of the present fiscal system, with its reliance on the tariff and subsidies, the province should insist not only on increased assistance to repair the damages of the national policy, but also on a policy which will ensure, that it is not forced to pay its own assistance. In the interests of the province and of the Dominion, such a policy should involve a recovery in economic status, which will enable the province eventually to place less weight on the Dominion, and the Dominion to bear such weight more easily."

As Nova Scotia is at the circumference of the tariff protected area, the tariff bears heavily upon our people. Notwithstanding the fact that this is a proper subject for consideration in determining that larger grants should be given to this Province, particularly where there is now no approach to meeting our fiscal needs, there is besides an undoubted claim for special consideration and compensation in the form of lower freight rates. The Special Freight Rates Act passed as a result of the recommendation of the Duncan Commission, sought merely to restore the pre-1912 relativity of rates between the Provinces and to implement the pledges and pronouncements that had been made with respect to the operation of that section of the Canadian National Railways which for strategic reasons had followed a course approximately 250 miles greater than would have been followed had it been built merely for commercial purposes.

If, therefore, the protective tariff has the general effect of creating benefits for the central area, and operates as a burden upon another

area, then some indemnification should be made where the burdens exceed the benefits to be derived. As the present position of the Maritime Freight Rates Act is being given special consideration we shall not further allude to the effect of the present operation of that Act.

In preparing the submission for the Jones Commission it became quite evident that the lack of accurate statistics on interprovincial trade hampered greatly the work of the government and of the Commission. Nevertheless, from what statistics were made available and from hearing over two hundred witnesses in all parts of the Province, the Jones Commission stated at page 49 of their report:—

“We believe that the industries of Nova Scotia, regarded as a whole, have suffered materially from the high tariff policy pursued by the Confederation during the past fifty years. The compensations offered by the Canadian market have not been sufficient to offset the loss of foreign markets. We believe that the policy has been a factor retarding the economic development of the province and that if a low tariff policy had been pursued the economic development of the Province would have been more rapid and that the Province would have been able to maintain an increasing population on a higher standard of living than has actually been enjoyed during the last half century.”

Again on page 79 as a recommendation on tariffs the Jones Commission states:—

“We believe that the tariff policy of Canada has reacted unfavourably upon the economic development of Nova Scotia. It has tended to retard the growth of the exporting industries of the province without providing adequate compensations in other directions. It is true that, by means of the tariff and subventions, the central Canadian market has been brought within the reach of the coal mining industry, which would otherwise have been the monopoly of the United States industry; and that the steel and car construction industries have received a share of the orders for railway material and equipment from the Canadian railways; and that the Dominion Government has assisted in other ways. When, however, the advantages and disadvantages have been set against each other, we are definitely of the opinion that the fiscal policy pursued by successive governments has reacted injuriously upon the welfare of Nova Scotia.”

The general policy pursued since Confederation has been harmful, and there is no distinction in the findings of the Jones Commission made

between the successive Governments at Ottawa. The general policy has reacted injuriously upon the Province.

In 1926 the then Government of Nova Scotia presented its case to the Duncan Commission. The views of that Government may have been different from those of the present Government in many ways, but in this particular matter the views of both Governments were the same. That Government said to the Duncan Commission, as will be found at page 146 of the Provincial brief:

“Protection, or free trade, or an exclusively revenue tariff may be advocated with some show of logic, but surely no reasonable defence, no consideration based on equity or sound public policy, can be advanced in support of a system under which Nova Scotians are compelled to buy what they consume in a substantially protected home market, and to sell what they produce in a virtually unprotected one.”

That was the opinion of the Government of Nova Scotia in 1926. The opinion of the present Government of the Province is represented in the submission to the Jones Commission which I have here. And the views of the Jones Commission are set forth in the two extracts which I have read regarding the tariff. These were not the only bodies or persons to take that view, for I might point out that Sir John Rose, the then Minister of Finance for Canada, declared as early as 1869 that the tariff was bearing heavily on Nova Scotia. That is to be found at page 90 of this volume entitled Dominion Documents, which documents were extracted from the Journals of the Legislative Council and of the House of Assembly of Nova Scotia, and they are also to be found in the Canadian Sessional Papers of 1869. After dealing with debts and so on, Sir John Rose said, on the 24th January, 1869:—

“The increase of customs presses more directly on Nova Scotia than the other provinces, but this apparent increase and the consequent pressure, it is believed, will be mitigated every year as goods which she formerly imported from abroad and were charged with duty are produced in other portions of the Dominion and will now be available to her for consumption free of duty.”

The customs tariff of Canada in 1869 was higher than the tariff to which Nova Scotians had been accustomed. At Confederation the tariff was about eight and a half per cent. Thus immediately after 1867 Nova Scotia began to feel its effects. And as already said Sir John Rose, the Canadian Minister of Finance, admitted that the tariff was pressing more heavily on Nova Scotians than on the people in other parts of Canada.

The Nova Scotia Government that was elected within a few months after Confederation was composed of only two pro-Confederationists and thirty-eight anti-Confederationists. That Government presented a memorial to the Imperial Government in England asking for repeal of the British North America Act in so far as it concerned the Province of Nova Scotia. A despatch was received in answer to that memorial from the Duke of Buckingham and Chandos, then Secretary of State for the Colonies, in which he declared that:

"Her Majesty's Government feel that they need only draw the attention of yourself and your Government to the points raised in the address relative to taxation, the regulation of trade, and the fisheries, as they are confident that it will be equally the wish of your Government and of the Parliament of the Dominion to relax or modify any arrangements on these subjects which may prejudice the peculiar interests of Nova Scotia and of the Maritime portion of the Dominion."

That is, with respect to the regulation of trade, the fisheries and taxation, the British Government of that day felt that if any harshness was being imposed on the Province of Nova Scotia or the Maritime Provinces generally, arrangements would be made to relax or modify the conditions which produced that harshness.

Even though some of the Fathers of Confederation admitted in the earlier days that the effects of the tariff bore more heavily upon the Maritime Provinces than upon the central parts of Canada, they did not visualize the most immediate effect, namely, the developed inequality in the taxable capacity of the various Provinces. This is a hardship which cannot be removed wholly by a re-adjustment of financial relations between the Dominion and the Provinces. It is, however, very important to emphasize the fact that one result of the policies adopted by the Federal Parliament is that the capacity of our people to pay taxes is less than the average in Canada.

The Federal Government should, as far as possible, frame its policies so as to give equality of opportunity to all people within the federation. Where this is impossible the grant of a subsidy to a Provincial Government may be the only solution. The granting of a subsidy, however, is inadequate compensation, because it does not raise the general economic level of the people of the Province. It may make financing a little easier for a Provincial Government, but as far as we are concerned the real problem is to make financing easier for the half million or so inhabitants of Nova Scotia.

Reference has been made previously to the special economic enquiry into the Australian Tariff in 1929. In an appendix to this study the

Committee makes a number of interesting observations on the effect of the tariff on state finances. The following observations are so pertinent to the situation which exists in Canada that they deserve to be quoted at some length:

- (1) "The unequal effects between states are probably the most embarrassing consequences of the tariff, but they have their roots in the unequal effects between industries, which are natural and inevitable consequences of tariff protection. Were Australia one small, compact economic unit, in which the benefits of protection were thoroughly diffused, in which one common tax system operated, and in which development expenditure was equally shared, differences between areas would be less important. But with our diverse geographical conditions and our Federal System of Government this is not the case.
- (2) "The distribution of Australian industries has been substantially modified by the tariff. Assistance to protected industries has been provided chiefly at the expense of the export industries. We have shown that these industries are retarded and that their land values have been curtailed. The costs imposed upon them have been borne chiefly in the country districts and in the outlying states, which are more naturally adapted for the export industries.
- (3) "The geographical differences between the states account for differences in aptitude, and the benefits of increased production have been transferred from areas and states having natural aptitudes for export industries to areas and states having natural aptitudes for the protected industries. The tariff has, therefore, materially affected the relative prosperity of the different states.
- (4) "The established producers in these areas and states have undoubtedly been penalized by the tariff. From the point of view of the states themselves the consequences are not less important. Not only have the incomes of the established producers been curtailed, and therefore the taxation derived from land and incomes generally, but some production has been prevented, and the state revenue which would have been received from that production has been lost. This applies not only to tax revenue, but to revenue from various state services, and especially from railways. The cost of the tariff has prevented the full use of development utilities and the full response to state efforts to stimulate production.

- (5) "The effect on state revenue from these combined causes is obvious, though not easily measurable. Still more difficult to measure with our inadequate data is the probably more important effect of the loss of export production which would have taken place without the excess costs of the tariff. This will depend, amongst other things, on the varying degrees to which the natural resources in each state would respond to a given decrease in production costs, a matter on which we have noted our ignorance. We will only say that the discriminating effect on the revenue of different states appears to be substantial.
- (6) "It is natural that the harmful effects of the tariff should express themselves most acutely as difficulties of state finance. The effects are not felt directly by landowners, nor in the check to production. Land generally does not decline in value, nor does it go out of production. It merely fails to respond adequately to development expenditure and in so far as state assistance succeeds in cancelling the tariff costs borne by the farmers, it does so at state expense. The states which enjoy more than their proportional share of the benefits of protected industries may be able to afford this result. Their taxable capacity is increased through the protected industries established in their territories. But opposite results are experienced in the other states. Their taxable capacity is lowered, so that their rates of taxation have to be increased; industry is further encouraged to concentrate in the more fortunate states, and the cumulative effects which follow intensify the inequalities created by the tariff itself."

While some of the sentences quoted above have a purely local application, the committee's report describes with surprising accuracy the effect of the tariff upon the financial position of the various Provinces of the Canadian federation.

In Canada as in Australia the differences in taxable capacity of the federation are difficult to measure in exact terms. There are, however, certain indices which assist greatly in obtaining an approximate measurement of these differences, and I take it it will be the purpose of this Commission to examine the methods applied elsewhere to determine these difficulties with a view to their applicability or otherwise to conditions in Canada. After a careful consideration of this problem the Jones Economic Commission Nova Scotia, to which I have already alluded, came to the definite conclusion, (page 79.):—

"We believe that the Dominion tariff policy has reacted unfavourably upon the industries of Nova Scotia. . . . When, however, the advantages and disadvantages have been set against each other, we are definitely of the opinion that the fiscal policy pursued by successive Governments has reacted injuriously upon the welfare of Nova Scotia."

It may be difficult to calculate in exact terms the effect of the tariff on the taxable capacity of the Province, but in the submission made by the Government of Nova Scotia to the Jones Commission, calculations as to the unequal incidence of tariff subsidies on tariff costs make it abundantly clear that in considering taxable capacity regard must be had to the effect of the fiscal policy of the Dominion upon the industrial and commercial life of the various Provinces of which it is comprised.

In Nova Scotia's submission to the Jones Commission in 1934 Mr. Rogers calculated the net loss to Nova Scotia for the year 1931 by reason of the tariff as \$4,478,000. The method which Mr. Rogers pursued to reach this conclusion is set forth in pages 88 to 102 of Nova Scotia's submission. Briefly, Mr. Rogers took the total enhancement of prices to consumers because of the tariff and he deducted from that figure the enhancement in prices of Nova Scotia products because of the tariff. He also deducted tariff subsidy on Nova Scotia coal. The difference between tariff cost and tariff subsidy was, as already stated, \$4,478,000.

It is recognized that some criticism has been made of the method pursued by Professor Rogers, notably by Professor D. C. MacGregor, of Toronto, in the *Canadian Journal of Economics and Political Science*, Volume 1, page 384. Professor MacGregor's criticism, however, is one that affects the degree rather than the kind of the strength of Professor Rogers' argument, and Professor MacGregor himself recognizes that the injury of the tariff policy of Canada to Nova Scotia has been substantial both in its tangible results and in other ways which cannot be statistically estimated.

TRANSPORTATION AND FREIGHT RATES

The conference of delegates from the various Provinces which met in London in 1866 submitted to the Imperial Government and Parliament certain resolutions as the basis of the British North America Act. Resolution No. 65 was as follows:

"65. The construction of the Intercolonial Railway being essential to the consolidation of the union of British North America, and to the assent of the Maritime Provinces thereto, it is agreed that provision be made for its immediate construction by the General Government, and that the imperial guarantee for £3,000,000 sterling pledged for this work be applied thereto, so soon as the necessary authority has been obtained from the Imperial Parliament."

The construction of the Intercolonial Railway was planned before Confederation as a commercial proposition. Guarantee of the Imperial Government was sought and given on the understanding that commercial considerations should be sacrificed to Imperial interests.

Section 145 of the British North America Act, 1867 declared that:

"Inasmuch as the Provinces of Canada, Nova Scotia and New Brunswick have joined in a Declaration that the construction of the Intercolonial Railway is essential to the Consolidation of the Union of British North America, and to the Assent thereto of Nova Scotia and New Brunswick, and have consequently agreed that provision should be made for its immediate construction by the Government of Canada: Therefore, in order to give effect to that Agreement, it shall be the duty of the Government and Parliament of Canada to provide for the commencement within six months after the Union, of a railway connecting the river St. Lawrence with the city of Halifax in Nova Scotia, and for the construction thereof without intermission, and the completion thereof with all practicable speed."

The Intercolonial Railway was constructed in pursuance of this section.

In 1926 the Government of Canada, by Order in Council, appointed Sir Andrew Rae Duncan, the late Judge Wallace and the Honourable Cyrus MacMillan a Commission to enquire into certain claims of the people of the Maritime Provinces and to make, as a result of such enquiry and examination, such specific recommendations as, in the opinion of the Commissioners, would result in affording relief from the conditions complained of. This Commission, commonly known as the "Duncan Commission", in its findings, declared that—

"a balanced study of the events and pronouncements prior to Confederation, and at its consummation, confirms the representations submitted to us on behalf of the Maritime Governments in regard to the ultimate construction of the railway, viz:

- (a) That leading Canadian statesmen in urging the adherence of the Maritime Provinces to Confederation defined the purpose of the railroad to be
 - (i) A means of affording to Canadian merchandise, and to Canada herself in times of national and imperial need, an outlet and inlet on the Atlantic Ocean—available all the year round—and
 - (ii) To afford to Maritime merchants, traders and manufacturers, a market of several millions of people instead of their being restricted to the small and scattered populations of the Maritimes themselves, particularly in the light of the disturbance with which their trade was threatened as the result of the discontinuance by the United States of the reciprocal arrangements that had prevailed.
- (b) That strategic considerations determined the actual course making it many miles (estimated by Sir Sandford Fleming at 250 miles) longer than was necessary—if the only consideration had been 'to connect the cities of the Maritime Provinces with those of the St. Lawrence.'
- (c) That to the extent that commercial considerations were subordinate to national, imperial and strategic considerations, the cost would be borne by the Dominion and not by the traffic that might pass over the line."

The Duncan Commission found that, from the date of the completion of the Intercolonial Railway in 1876 down to the year 1912, the interests of the Maritime Provinces were fairly well safeguarded, the freight rate structure being such as to take into account the requirements of their traffic. The lower level of rates that prevailed on the Intercolonial Railway system prior to 1912 was, in the view of the Commission, rightly to be interpreted as the fulfilment by successive governments of the policy and pledges that surrounded the railway from its inception.

The Commission also found that subsequent to the year 1912 changes took place in the framework of the rate structure and increases had been added to the freight rates. The combined effect of these was

held to impose upon the merchandise and industry of the Maritimes a burden which was quite out of proportion to the increase which had been added since 1912 to the freight structure in other parts of Canada.

From figures submitted to the Duncan Commission, by those administering the Canadian National Railway system, it appeared, and the Duncan Commission so found, that Intercolonial rates from 1912 to 1926 had sustained an estimated cumulative increase of 92% (i. e. their 100 had become 192). The estimated average increase of rates for the rest of Canada was 55% (i. e. their 100 had become 155).

The effect of these changes in rate structure was, in the words of the Duncan Commission,—

“We have come very definitely to the conclusion that the rate structure as it has been altered since 1912 has placed upon the trade and commerce of the Maritime Provinces,

- (a) a burden which, as we have read the pronouncements and obligations undertaken at Confederation, it was never intended it should bear, and
- (b) a burden which is, in fact, responsible in very considerable measure for depressing abnormally in the Maritimes today business and enterprise which had originated and developed before 1912 on the basis and faith of the rate structure as it then stood.”

The recommendations of the Duncan Commission, therefore, were that an immediate reduction of 20% (so that 192 would become approximately 155) be made on all rates charged on traffic which both originates and terminates at stations in the Atlantic Division of the Canadian National Railways and that the same reduction be also applied to the Atlantic Division proportion of the through rates on all traffic which originated at stations in the Atlantic Division (excluding import traffic by sea) and is destined to points outside the Atlantic Division.

The Duncan Commission, in recommending these specified reductions in freight rates, was only endeavoring to reinstate the relative position of the Maritime Provinces to the basis which existed prior to the year 1912. They state in their report:

“We feel that the increase arising from the changes that have taken place in freight rates since 1912—over and above the general increase that has taken place in other parts of the National system—is as fair a measure as can be made of these special considerations, and accordingly should be transferred from the Maritimes to the Dominion so that the original intention may be observed.”

The recommendation of the Duncan Commission was given effect to in the Maritime Freight Rates Act, 1927, being Chapter 44 of the statutes of Canada for that year. It now appears as Chapter 79 of the Revised Statutes of Canada, 1927. The preamble, which is contained in the original Act, is as follows:

'WHEREAS the Royal Commission on Maritime claims by its report, dated September 23rd, 1926, has, in effect, advised that a balanced study of the events and pronouncements prior to Confederation, and at its consummation, and of the lower level of rates which prevailed on the Intercolonial system prior to 1912, has in its opinion, confirmed the representations submitted to the Commission on behalf of the Maritime Provinces, namely, that the Intercolonial Railway was designed, among other things, to give to Canada in times of national and imperial need an outlet and inlet on the Atlantic Ocean, and to afford to Maritime merchants, traders and manufacturers the larger market of the whole Canadian people instead of the restricted market of the Maritimes themselves, also that strategic considerations determined a longer route than was actually necessary, and therefore that to the extent that commercial considerations were subordinated to national, imperial and strategic conditions the cost of the railway should be borne by the Dominion, and not by the traffic which might pass over the line; And whereas the Commission has, in such report, made certain recommendations respecting transportation and freight rates, for the purpose of removing a burden imposed upon the trade and commerce of such Provinces since 1912, which, the Commission finds, in view of the pronouncements and obligations undertaken at Confederation, it was never intended such commerce should bear; And whereas it is expedient that effect should be given to such recommendations, in so far as it is reasonably possible so to do without disturbing unduly the general rate structure in Canada: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—'

Under Section 2 of the Act it is declared that for the purposes of the Act the lines of railway operated as a part of the Canadian National Railways and situated in the Provinces of New Brunswick, Nova Scotia and Prince Edward Island, and the lines of railways, similarly operated, in the Province of Quebec, extending from the southern Provincial boundary near Matapedia and near Courchesne to Diamond Junction and Levis were collectively designated, for the purpose of the Act, as the "Eastern lines".

The Act declared that the rates on Eastern lines existing on the 1st of July, 1927 should be reduced approximately 20%.

The Board of Railway Commissioners was authorized and directed to cancel all existing rates and to approve rates of approximately 20% below the then existing tariff.

The Board was also authorized to adjust or vary such substitute tolls or tariffs as new industrial or traffic conditions arise but always "in conformity with the intent of this Act as expressed in the preamble and in Sections 7 and 8 and other relevant sections thereof."

The reduced rates were to apply on local traffic all rail between points on the Eastern lines. Also on traffic moving outward, westbound, all rail—from points on the Eastern lines westbound to points in Canada beyond the limit of the Eastern lines at Diamond Junction or Levis; for example, Moncton to Montreal—the 20% reduction should be based upon the Eastern lines proportion of the through rate or, in the example mentioned, upon the rate applicable from Moncton west as far as Diamond Junction or Levis.

Sections 7 and 8 of the Act are quoted in full as follows:

"7. The rates specified in the tariffs of tolls, in this Act provided for, in respect of preferred movements, shall be deemed to be statutory rates, not based on any principle of fair return to the railway for services rendered in the carriage of traffic; and no argument shall accordingly be made, nor considered in respect of the reasonableness of such rates with regard to other rates, nor of other rates having regard to the rates authorized by this Act.

8. The purpose of this Act is to give certain statutory advantages in rates to persons and industries in the three provinces of New Brunswick, Nova Scotia and Prince Edward Island, and in addition upon the lines in the province of Quebec mentioned in section two, together hereinafter called 'select territory,' accordingly the Board shall not approve nor allow any tariffs which may destroy or prejudicially affect such advantages in favour of persons or industries located elsewhere than in such select territory."

The Maritime Freight Rates Act was passed as a measure of justice to Nova Scotia and the other Maritime Provinces. It has been, and still is, of considerable benefit to the Maritimes.

Under a recent decision of the Supreme Court of Canada, however, it is considered that the purpose of the Act has been, to a considerable extent, nullified and the development of export trade to other parts of Canada in reliance upon its provisions will be greatly affected and curtailed.

Unless the Maritime Freight Rates Act can be amended so as to restore what we consider to be the proper balance between rates on Eastern lines and rates in other parts of Canada many of the benefits contemplated by the Duncan Commission will be swept away and gradually the Maritime Provinces will be pushed back towards the position they occupied between the years 1912 and 1926. If this position is to continue, then certainly some compensation must be made to the people of the Maritime Provinces.

The Transportation Commission of the Maritime Board of Trade, representing as it does the Governments of the three Maritime Provinces, will present to this Commission a detailed brief on the Maritime Freight Rates Act, its object and scope and the manner in which it has been operated during the past ten years, and the effect of the recent decision of the Supreme Court of Canada upon its operation.

CHAPTER 4

ILLUSTRATIONS OF LOW TAXABLE CAPACITY OF NOVA SCOTIA

In a publication issued by the Dominion Bureau of Statistics in 1934 entitled "The Maritime Provinces, 1867-1934—A Statistical Study of their Social and Economic Condition since Confederation," the per capita wealth of Nova Scotia is given as \$1,769, whereas the per capita wealth of Canada is \$3,075.⁽¹⁾

It is admitted, of course, that it is extremely difficult to calculate accurately national or provincial wealth. But the significant feature of all comparisons made is that in every case Nova Scotia is lower than the rest of Canada. Take income tax, which was referred to on page 97 of the publication, the per capita assessment of income tax in Nova Scotia was \$46.20; the average for Canada was \$90.99.

Take ownership of motor vehicles, which was referred to on pages 98 and 99 of the work; in Nova Scotia there was one car for every 15.8 persons; in Canada as a whole there was one car for every 11.7 persons.

In Nova Scotia there was one telephone for every 11.5 persons. In Canada as a whole there was one telephone for every 8.3 persons.

In life insurance sales the average in Nova Scotia was 24.1 per capita; in Canada as a whole, 33.8 per capita.

In building contracts, in 1933, the average for the Maritime Provinces was \$7.00 per capita; in Canada as a whole, \$9.10 per capita.

In radios, Nova Scotia had 32.07 radios for every one thousand of rural population, against 45.78 per every thousand of rural population in Canada as a whole. In the urban centres Nova Scotia had 72.03 radios for every one thousand of its population, whereas Canada as a whole had 98.87.

(1) The per capita wealth of Nova Scotia, according to the Canada Year Book, 1937, page 863, was \$1,514. The per capita wealth of Canada was \$2,413.

In per capita net production, the figures for Nova Scotia in 1930 were \$223.00. The average for Canada was \$309.

For the census year 1931, the average yearly earnings of male workers in Nova Scotia were \$763.00; for all Canada the average for male workers was \$927.00. For female workers in Nova Scotia the average yearly earnings were \$430.00; for all Canada they were \$560.00.

It is interesting to observe that in per capita wealth Nova Scotia stands lower than any other Province of Canada, and that in all other tests which may be applied, such as income tax assessment, ownership of motor vehicles, telephones, radios, sales of life insurance and building contracts, yearly earnings, Nova Scotia runs from 20 to 40 per cent below the average of Canada. Every test shows that we are about two-thirds as prosperous as the rest of the Dominion.

If conditions of this sort are to be allowed to continue, there can be only one result for Nova Scotia, and that is, its younger and more ambitious people will be attracted to other Provinces or to other countries. Indeed, there is every evidence that for some time this attraction has made itself felt. The population of Nova Scotia between 1921 and 1931 declined by eleven thousand souls; and, according to the 1931 census, in the age groups from twenty-five to forty-four years, Nova Scotia is well below the average of these groups for Canada as a whole.

For a fuller study of population decline in Nova Scotia and the departure from Nova Scotia of its younger and more vigorous elements, I refer the Commission to the Submission by Professor Rogers to the Jones Commission, pages 81-87.

The returns from taxation in Ontario and Nova Scotia give further information illustrative of low taxable capacity in this Province. This calculation is based on 1936 returns using that made by Professor A. B. Balcom of Acadia University for the Jones Commission with respect to the 1932-33 returns.

The main items of taxation in both Provinces are derived largely from four items: gasoline taxes, corporation taxes, motor licenses and succession duties.

Gasoline Tax

The rate in Nova Scotia is 8c and in Ontario 6c. The yield per capita in Nova Scotia is \$3.38 on a higher rate; and in Ontario \$4.59. An 8c rate in Ontario would produce 6.12 per capita—in other words, nearly double the returns of Nova Scotia.

Corporation Tax	Rates in Nova Scotia are generally higher, in some cases much higher. The yield per capita is, Nova Scotia—\$1.92, Ontario—\$3.19.
Motor Licenses	Nova Scotia rates were more than twice Ontario rates. The yield per capita is, Nova Scotia—\$2.41, Ontario—\$3.15.
Succession Duties	Nova Scotia average rate higher. Yield per capita, Nova Scotia—\$1.10; Ontario \$4.66.
Other taxes	Yield per capita, Nova Scotia—\$3.30; Ontario—\$2.61.

The facts cited above show that Nova Scotia is making an even more strenuous effort to secure needed revenue by generally approved methods of taxation than is Ontario.

Owing to the larger yields from the four major tax measures Ontario can afford to reduce materially other methods of taxation.

If the four major items above referred to had yielded a per capita return in Nova Scotia equal to that derived in Ontario, current revenue income in this Province would have been increased by \$3,466,960, and we would be getting along with a 6c tax on gasoline instead of an 8c tax.

It is not too much to say that the more favourable position of Ontario and Quebec for producing results from the sources of revenue mentioned is due in considerable measure to a tariff policy and to economic centralization, both of which have operated to contract similar sources of revenue in Nova Scotia and in other outlying Provinces.

It is self-evident that the differences in taxable capacity of the various Provinces of the Dominion have a direct effect upon the ability of such Provinces to discharge their constitutional obligations under the British North America Act. All the Provinces have the same jurisdiction; all are under the compelling influence of the demand for more and better highways, and larger expenditures for education and social services.

The Australian Grants Commission (Fourth Report, paragraph 22) says:—

“A federation works most satisfactorily if each State has sufficient financial provision to enable its citizens to receive normal services from the Government. If a State through financial weakness has to starve its services, e. g., restrict ex-

penditure on education and public works, it grows weaker. Only if the services conform to a necessary standard will each State make its appropriate contribution to the good of the whole Commonwealth."

Ontario and Quebec, with their higher net production, due in a considerable measure to tariff protection, are obviously in a much better position to increase expenditures for these services by imposing slightly higher rates of taxation upon their people, but producing disproportionate returns compared with returns that can be obtained in the other Provinces. Nova Scotia, moreover, as already indicated, is now imposing Provincial taxation which, in relation to net production is substantially higher than that imposed by the Province of Ontario.

Various expedients have been offered as a means of assisting the Provinces to meet the growing requirements of these governmental services which were not in contemplation when the original financial arrangements were established at Confederation, but these conditional grants only revealed the inherent weakness of these original arrangements. Doubtless these contributions were regarded as partial compensation to the Provinces for the appropriation by the Dominion of the elastic source of revenue provided by the income tax, which had been appropriated by the Dominion for the purpose of meeting its war obligations. With apologies the Dominion entered this field of direct taxation, hitherto regarded as reserved for Provincial purposes, and with this step the balance of fiscal power tended to pass to the Dominion Government.

Broadly speaking then the proposals to meet Provincial need in respect of these additional services have been as follows:—

- (1) Increased subsidies to the smaller and less wealthy Provinces.
- (2) A new delimitation of the fields of taxation with the general object of giving the Provinces greater authority to impose income taxes on individuals.
- (3) Assumption by the Dominion of responsibility for certain services which now fall under the constitutional jurisdiction of the Provinces.

It has been and can be amply demonstrated that because of its low taxable capacity to meet the demand for increased governmental services, without imposing an intolerable burden upon the surviving industries and the declining population of the Province, some readjustment must be made with respect to Nova Scotia. The incidence of the Canadian tariff upon the economic life of this Province has contributed materially to its low taxable capacity through the drain upon its annual income and the burden imposed on its export industries. The financial difficulties of the

government, both now and in the future, can only be met satisfactorily by an increase in the subsidy to meet its fiscal needs as they arise and by a re-allotment of some of the sources of revenue now exercised exclusively by the Dominion.

As already indicated, the Jones Economic Commission has expressed agreement with the substance of the Government submission on this point. The Government of this Province re-affirms its belief in the general statement made by that Commission which, clarified and made applicable to present conditions, is re-stated in the introductory statement made to this Commission, and for the reasons affirmed herein.

CHAPTER 5

THE FISCAL NEED OF NOVA SCOTIA

While we shall endeavour to enunciate principles in this regard which we feel will apply equally well to all the Provinces, it is important for this Commission to know the effect of the application of these principles to Nova Scotia. It will, therefore, be necessary to consider some aspects of Provincial need. I am glad to say that, owing in part to the implementation of the Duncan report and the consequent increase of the special subsidy to Nova Scotia, and in part to more buoyant revenues, the Province has been enabled to creep out of the deficit period, and emerge into an era of Provincial finance in which deficits will no longer hold the significance they did for the people of the Province for a number of years past. Nevertheless, there has necessarily been a holding back, a curtailment of expenditures not making for the betterment of the people and preventing them from enjoying the benefits of advanced legislation passed in other countries.

The Province has not yet, as a study of its finances by the Commission will show, made sufficient provision for sinking funds to meet the debt obligations of the Province incurred particularly for highway development, and in all avenues of Government there is a crying demand for increased allotments. The Government is at the present time giving consideration to the estimates to be laid before the Legislature at the ensuing session. In practically all departments, particularly those dealing with educational, agricultural, social and health measures, expenditures are mooted but cannot be sanctioned under present revenue conditions. The Provincial Treasurer in recent years has been faced with the necessity of applying most rigidly the principles of economy in the face of the many great demands that have been presented to him.

The test of fiscal need accepted at Confederation was the amount necessary for the performance "on a moderate but efficient footing" of the functions which fall to the Province. This test applied to present day conditions produces a far different result from what it did at Confederation. As the history of the subsidy question shows, the aim of

finality was never realized and, as we know, can never be realized. The fiscal need to be considered must be the fiscal need of today. It is an expanding, not a static concept; current need, not historic need, must be the determining factor. A current need must be the dominant constitutional principle covering the whole field of subsidies, whether annual or conditional. Extraordinary circumstances, such as widespread unemployment will clearly call for Dominion aid to the Provinces, because, as already stated, of the national interest in the due performance by the Provinces of their constitutional duties.

In the conferences prior to Confederation, it was agreed that the amount of the Provincial expenditure could be reduced to \$371,000. The Province had \$107,000 as revenue from its natural resources, leaving \$264,000 to be provided. This sum worked out at about 80 cents a head of the population. With other allowances the original subsidy given in 1867 to meet the Province's fiscal need totalled \$324,685.60. In other words, the subsidy was at the beginning 87 per cent of the total estimated Provincial expenditure. This original subsidy was subsequently increased as the needs of the Province were shown to be greater. Today the subsidy paid by the Dominion Government to meet the fiscal needs of the Province, even with \$1,300,000, the amount of the Duncan and White Commissions' subsidy award added, is but 11.2 per cent of the total revenues of the Provinces. In the first year after Confederation the amount received from the Dominion, including interest on debt allowance, special subsidy and governmental allowance, was \$1.58 per capita, whereas the subsidy last year, calculated by the 1931 census and including the special subsidy referred to, showed only \$3.80 per capita, despite the enormously greater Provincial expenditure.

It is important to point to the different rate for the determination of the payments made to the States by the Commonwealth of Australia. South Australia, which has a larger area and a slightly higher population than Nova Scotia (595,000 people), received in direct payment for the last fiscal year from the Federal Treasury the sum of £2,600,509 (\$12,654,807), or \$21.40 per capita; Western Australia, with a population of about 50,000 less than Nova Scotia, received a total direct payment for the last fiscal year of £1,753,687 (\$8,534,610.06), a per capita rate of \$18.73; Tasmania, with an area approximately that of the Province of Nova Scotia and a population less than half that of Nova Scotia, received a total of direct payment for the last fiscal year of £1,074,983 (\$5,231,583.93), or a per capita rate of \$22.34.

In addition to these items of direct payments there are payments to the States from the Australia Commonwealth Consolidated Revenue Fund. South Australia received as assistance for relief of primary producers by way of bounties, and as contributions to works and other purposes by way of grants, amounts totalling £625,306 (\$3,043,155);

Western Australia received £494,699 (\$2,397,535); Tasmania received £164,228. (\$799,242). These are all payments from the Commonwealth Consolidated Revenue Fund as assistance to State finance.

In presenting the claims of the Province of Nova Scotia to the White Commission the amount which this Province was to require annually during the next few years to meet its expansive needs was estimated at \$5,236,120. Yet Tasmania, the smallest of the states of the Australia Commonwealth, with less than half the population of Nova Scotia received from the Federal treasury of Australia, for the last fiscal period, the sum of \$22.34 per head. If this per capita rate were available to Nova Scotia we would be receiving annually \$11,456,980, which is more than double, as will be seen, the estimated amount required to meet the projected fiscal need of the Province of Nova Scotia over a period of years.

If payments are to be made on the basis of fiscal need it is evident that there are on the part of the Province certain obligations.

1. It is necessary to show that Provincial administration is reasonably efficient, but not extravagant.
2. That the functions which the Province is endeavouring to perform are not unduly in advance or more extensive than those of other Provinces.
3. That the Province is, for its own purpose, levying on its people a fair burden of taxation.

The Province is not Extravagant.

This Commission has received full statistical information dealing with the revenues and expenditures of the Province over a period of years, and we shall be glad to co-operate further in furnishing any information regarding the financial transactions of the Province which the Commission or its officers desire. We welcome the opportunity which this will afford for a critical examination of our finances, as we feel assured that when all tests which may be devised have been applied to this Province, and your judgment secured thereon, it will be found but to concur in the opinions already recorded by Commissions that have investigated in recent years our conditions.

In the first instance your attention is called to the judgment recorded by the Duncan Royal Commission on Maritime Claims in 1926, to be found on pages 15 and 16 of the printed report, and particularly to the following statements:

"In trying to form a judgment on this subject, we have applied tests—such as: (a) Is the expenditure which the Provinces are incurring reasonable? and (b) Are they accepting, in a reasonable measure, the underlying principle of the whole of this branch of finance, namely, that Provinces are expected to supplement their revenues from sources of their own, or are they expected to be free to spend as they like and to look to the Dominion to meet the bill? We have gone over the Provincial accounts of the three Provinces in detail. The scope of administration—take public works as an example—has certainly increased, and it is not easy to draw a hard and fast line as to where Government machinery ends. But many departments of their activity are being run at a surprisingly low cost, and WE FEEL SATISFIED THAT THEY CERTAINLY ARE NOT ON THE WHOLE INCURRING UNREASONABLE EXPENDITURE. Nor do we feel that in view of the burdens they are carrying they can be expected to meet from their own revenues the increased cost of their machinery of government WE ARE SATISFIED THAT THEY DO RECOGNIZE THAT PROVINCES ARE EXPECTED TO SUPPLEMENT THEIR REVENUES FROM SOURCES OF THEIR OWN. AND THAT THEIR PRESENT FINANCIAL POSITION DOES NOT ARISE FROM ANY MISCONCEPTION SUCH AS THAT PROVINCES SHOULD BE FREE TO SPEND AS THEY LIKE AND TO LOOK TO THE GOVERNMENT TO MEET THE BILL. A REVIEW OF THEIR FINANCIAL OPERATIONS OVER A LONG PERIOD SUGGESTS FRUGAL EXPENDITURE."

On the 20th January, 1930, the Audit Board of Canada was directed by the Treasury Board to conduct an investigation and to advise as to an equitable re-assessment of the claims of the Maritime Provinces by virtue of the Duncan Report. On the 8th October, 1930 the Audit Board made an Interim Report to the Prime Minister of Canada, from which the following is an extract:—

"The Provinces of Nova Scotia and Prince Edward Island showed deficits in their Public Accounts for the last fiscal year, and the Province of New Brunswick showed a slight surplus. We are sure that if they made expenditures upon education, health and other public welfare services proportionate to that of the other provinces of Canada, these adverse financial results would be far greater."

The Jones Economic Commission in 1934 confirmed the statement made by the Duncan Commission in 1926 in relation to Provincial expenditures by saying, page 73:—

"We also share the opinion expressed by the Royal Commission on Maritime Claims that the expenditures of Nova Scotia have been kept within reasonable and prudent limits. We feel that the Province has almost reached the limit of revenue that is available from taxation, with existing resources in industry and population. It is for this reason that it has been found necessary to borrow money for the purpose of meeting the charges arising from the old age pension scheme, and this shows the impracticability of attempting to establish, without external assistance, further social services that are within reach of other Provinces and actually enjoyed in other countries."

The Jones report then referred to the fact that in the first two years of the operations of the Old Age Pensions Act, the deficit of the Province was increased by the expenditures of \$343,000 and \$716,000 respectively for this purpose. That deficit was, and is now, included in the debt of the Province. In 1936, however, and again last year, the Nova Scotia proportion of Old Age Pensions was paid out of the ordinary revenues of the Province. The Jones Commission, however, goes on further to say:

"We have referred to the fact that the deficit from which the Province was suffering at the time when the Royal Commission on Maritime Claims submitted its recommendation was due to the inability of the economic resources of the Province to meet the requirements of public expenditures needed to support that type of economic life that was regarded as the common heritage of Anglo-Saxon communities. We believe that what was true of the time at which the Commission sat and reported is substantially true today, with the difference that whereas in 1926 the condition of industry and trade was relatively satisfactory, at the present time it is under the influence of the world depression."

And the White Commission, in investigating this same matter after referring to the increased public debt of the Province, stated:

"Outside of capital expenditures the administration of all three Maritime Provinces appears to us to have been quite economical and even, as characterized by the Duncan Commission, "frugal". The salaries paid to their ministers of the Crown, officials and other public servants and the limited provision made for social services are on a much lower scale than that prevailing in the other Provinces. Every other provincial government in Canada has or has had during recent years heavy budgetary deficits. It was inevitable that they should have, owing to their vast capital expenditures in the "boom" years and relief necessities during the period of depression. We should, however, under this heading consider that in ability to

meet, out of their annual revenues, the servicing of their public debts and their other ordinary expenditures the Maritime Provinces are handicapped by the conditions, to which we have alluded, of an isolated economic position with respect to the rest of Canada, a stationary or declining population and less per capita wealth and taxable capacity than most if not all of the other provinces of the Dominion."

These considered opinions are amply borne out by the evidence which was available to these Commissions.

It may here be mentioned that one of the standards by which the Australian Grants Commission determined whether a state in financial difficulties should receive financial aid was that of "reasonable effort". There must be some substantial effort made by every State in difficulties in order to provide the incentive to get out of those difficulties. In so far as the difficulties of a State were due to its own mistakes or extravagances in the past, the effort required should be greater, but not exceed a certain maximum. No state should be asked to reduce its standards of government below a certain point, whatever its past mistakes have been. In determining the minimum and maximum standard of effort for any claimant State, the Commission states, Third Report:—

"219. It is sometimes said rather lightly that it is always possible for any government to pay its way if it makes effort enough. This may generally be true of current expenditure, but it ignores the questions of debt. If a state is losing population to more prosperous countries, a heavy dead weight debt may become an impossible load for those who remain. Similarly, price changes such as those experienced in recent years may convert a reproductive debt to a dead weight debt with crushing effect. This is true even of an independent State. Within a federation the limits of economy in current expenditure may be narrowly circumscribed. In Australia the expenditure for general purposes may be on a scale which the less wealthy States could not have undertaken for themselves. The annual interest on war debts is nearly £2 per head. Tasmania, as a separate State, might well have made the same war effort in flesh and blood without feeling able to offer the financial contribution in which federation involved her. The same circumstance applies to other forms of expenditure. Commonwealth pensions of all kinds cost annually £3 per head of population. If the States had been independent, economy might have dictated for some of them pensions on a less generous scale but in a federation they have no choice. These two items alone, amounting to £5 per head, make a large field in which State effort at economy cannot function. The total special grants last year averaged only about £2 per head of the population of the States concerned.

"220. The effect of federation in preventing drastic economies goes, however, much further than this. Wages and many salaries are determined within fairly narrow limits for any State. Nearly every class of wage-earner and many salary-earners can, if they so desire, come under the jurisdiction of the Federal Arbitration Court, and secure an Australian wage. State determinations of wages can only be effective on the condition that they do not fall much below the standard of the Federal Court.

"221. If we exclude public debt charges, which are fixed, and call the remainder adjustable expenditure, then wages and salaries make for all States about two-thirds of adjustable expenditure. It is obviously impossible for a government to pay its servants much below the corresponding rates in private employment, and, in fact, most wage expenditure by States is in railways, where rates are fixed by Commonwealth awards. Over this field economy cannot go much further than some reduction in personnel, a reduction which a few years ago may have offered considerable scope, but has now been fairly well exploited."

The per capita expenditure of Nova Scotia in 1934, the last year for which comparable statistics are available, shows the ordinary expenditure to have been 19.45 per capita, lower than the average for all the provinces by .66 per capita; and this is not true of one year, but is generally applicable to the Province of Nova Scotia over a period of years since Confederation. In fact, save for Quebec and Prince Edward Island, we have usually had throughout our Confederation history the lowest per capita expenditure. A review of the Province's expenditures over a period of years is given in the submissions both to the Duncan and the Jones Commissions and these are available for your consideration.

In the collection of revenue the Province has been careful to keep down its overhead cost. The collection of the four major items of taxable revenue referred to previously, viz, gasoline tax, corporation tax, motor licenses and succession duties, cost the Province \$114,827, a cost of 2.53 per cent. This is comparable, for example, with the cost of collection by the Dominion of Canada of its Sales, Income, and Customs and Excise Taxes in the Department of National Revenue which shows for the last fiscal year, of which statistics are available, a collection cost of 3.49 per cent. Were Nova Scotia revenue comparable with that of Ontario the percentage cost of collection of these items of revenue would be very materially reduced as it would cost but very little more in supervision to duplicate the revenue; were the returns comparable to those received by Ontario from these sources of revenue available to Nova Scotia our collection cost would be reduced to 1.5 per cent.

Moreover, the Province of Nova Scotia imposes other duties on those concerned with the collection of taxes, the cost of which is included in the foregoing expenditure. The registration of securities, the executive work of the Governor in Council, the incidental correspondence of the Government, the registration of companies, partnerships, collection and insurance agencies, all the work of the Department of the Provincial Secretary, including the collection of that portion of the revenue assigned to it, is carried on at a cost of 1.5%.

Taking these services carried on today under the direction of the Provincial Secretary, the total cost of administration in Nova Scotia is \$22,683. For similar services in Ontario the cost according to the Public Accounts for 1936 is \$235,386; in Manitoba, \$110,000; in Saskatchewan \$34,034; in British Columbia \$93,336. These amounts are but illustrative and like comparisons could be instituted for other departments of Government. Our ministers of Government are paid very much lower salaries than in other Provinces of Canada west of the Maritimes. Our members in the Legislature are indemnified for their services and attendance at the annual Assembly on a much lower scale than in other Provinces. Generally speaking, throughout the civil service the salaries paid are at a much lower rate than the other Provinces of Canada. And to make it more difficult to carry on government with this lower scale of remuneration, we have within our population an admixture of Dominion Government employees who are in receipt of salaries which are fixed on a Dominion-wide scale. Moreover, we have a large class of employees, such as railway employees, whose wages and hours of employment are standardized for all of Canada.

These are criteria which set up a standard that is difficult for a Provincial Government to ignore. If the local Government in itself pays the lowest scale of wages, obviously the result in a competitive field is to lose from the Provincial to the Dominion service, or to a more attractive field in other Provinces of Canada and States of the Union, many of our employees and many of our young men and women who naturally seek the employment that ensures the larger income. It is a very important contributing factor to our loss of population, and a loss which in the interests of the Province we can ill afford to bear.

As was clearly shown in the submission to the Duncan and Jones Commissions, the Province has not been able to make necessary and desirable improvements in the various matters which come within its jurisdiction. The increasing expenditures in this Province have been due in the main to the addition of new services not in contemplation at Confederation, or to an extraordinary enlargement of services which were definitely committed to the Provinces under the British North America Act, but which were regarded by the accepted political theory of that day as being unlikely of rapid expansion.

Since the interim grant of 1927 was made available to the Province, provision has been made for Mothers' Allowances, and a beginning has been made in institutional work in the care of the feeble minded. In 1934 the Nova Scotia Government was responsible for the cost of administration of Old Age Pensions, as well as 25 per cent of the actual cost of these pensions within the province. The cost of highway construction has been increasingly felt, and the demands for hard-surfaced roads have been so great, and the importance of developing the tourist traffic so vital, that much greater expenditures are necessary for these purposes.

The Commission will find, on examination of the expenditures for the fiscal years of the last decade or so, that there has been no substantial increase in the expenditure for civil government, legislation, and administration of justice. The startling increase or expansion has been in the cost of public highways, education, agriculture, hospitalization, correctional institutions, charities, pensions and interest payments.

In 1930 at the instance of the Dominion Audit Board, asked to investigate the Provincial finance, a statement of the yearly expenditures and estimated projected expenditures was made. This estimate of both expenditures and revenue was prepared upon the submission of the departmental executive officers, indicating the amount required in each department to carry on the work assigned to it, or that should be covered if progress was to be made in the several avenues of government under Provincial jurisdiction. The ratio of increase in expenditure since that compilation was made has been consistently advancing, so that the figures presented are not far from what would be the normal expenditures for each year of the decade if the Government is to meet the just aspirations of its people with respect to the matters under its control. Our capital liabilities are now practically at the amount which was stated would be reached in 1941. This is due in great measure to the larger expenditure for highway construction of hard surfaced roads. The demands are insistent for increased maintenance of gravel roads, and for the extension of the paving program. It is not considered that this projected expenditure will be necessarily the actual expenditure of the Province at that time, because it is quite evident that without very materially increased revenue such an expenditure would not be possible and the Province cannot make provision for these very necessary services unless the revenue is forthcoming.

To meet the expenditure now being carried on, the Provinces must be helped by the Dominion Government, or new sources of revenue must be made available, for the present sources of revenue are being tapped to practically the very limit. When Sir Andrew Rae Duncan in his report stated that he recommended the immediate payment of an interim subsidy, he also stated that these payments would enable the Government to undertake a more extensive program in relation to agriculture, coloni-

zation, education, and other spheres of administration, which the Government at the time was precluded from undertaking, because of the inadequacy of their assistance from the Dominion Government.

Functions Not Unduly Extensive

An examination of the varied services which the Province of Nova Scotia is endeavouring to perform will bear out the contention that they are not unduly in advance of, or more extensive than those of other Provinces. Indeed, in many respects we lag behind. In all the other Provinces of Canada the income from natural resources has been sufficient to provide a system of education which has expanded with the advancing years, and in the three mid-western Provinces ample and very generous provision has been made by setting apart, out of Dominion lands, certain areas as an endowment for the purpose of education. From the sale of those lands, which the Dominion had set apart prior to their transfer to the Provinces, there was available at that time an amount for the three Provinces of \$33,293,470. From a very moderate estimate of the value of the unsold lands there would be available to the Provinces in future years an additional sum of not less than \$170,000,000. In round figures, \$200,000,000 at 3 per cent gives to these Provinces annually for additional purposes \$10,000,000.

Only recently has the Province been able to make any advances in social legislation comparable with those which have been made in other Provinces of Canada.

I would call your attention particularly to the conclusions reached by Dr. Harold A. Innis, and embodied in the chapter on Provincial Finance in his complementary report to the Provincial Economic Inquiry Commission:

"Lack of adequate means prevents the Government from undertaking the purchase and operation of a central reformatory and prison farm, a mark of social progress which has been made in many other provinces of Canada. The Province has not attempted to undertake as satisfactorily as it would like many of the functions of government which have rapidly extended since the original financial arrangements were made at Confederation, and which have grown very much greater than was thought of at the general revision of subsidies in 1907. Even in the revision of that year there seems to have been no clear recognition of the relationship between subsidies, taxation, and the expanding area of the Provincial Government services, nor was there any appreciation of the relation of tariff incidence to the taxable capacity of the various provinces as I shall show later on."

Burden of Taxation

Issued as an appendix to the main report of the Jones Economic Commission is an analysis of the Nova Scotia Provincial and Municipal Tax systems, showing the basis of the tax, its measure and rate as levied upon the people of the Province. In a few cases since the publication of that report the rates have varied and the revised re-statement is submitted herewith for your consideration. It will be seen from a careful study that scarcely any avenue of taxation which could be levied on the people has been omitted. In fact, the Jones Commission finds:

"It may also be urged that the Provinces have not sufficiently cultivated their own fields of taxation. We are satisfied on an examination of the structure of Provincial taxation, that except for the imposition of an income tax which would duplicate a form of taxation already adopted by the Dominion, the Province has explored every available means of supplementing its revenues by direct taxation."

Under ordinary circumstances the provision of new governmental services related to social welfare might have been met by the Provinces from the proceeds of income taxes. In most countries where rapid expansion has occurred in social services, resort has been had to this type of taxation. The Government of Nova Scotia, however, though possessing the constitutional power to impose income taxes for its own purposes, has been handicapped in doing so, because of the action of the Dominion Parliament in appropriating this field of taxation in 1917 as a means of raising revenue for war purposes. Moreover, the municipalities have in some cases, in a moderate way, used this method of taxation to implement their revenues. The legal authority of the Dominion Parliament to impose income taxes cannot be questioned. The fact remains, nevertheless, that the appropriation of this field of taxation by the Dominion has increased the difficulties of the Provinces, and particularly of Nova Scotia, in raising sufficient revenue to meet the expanding cost of services which lay within their constitutional jurisdiction.

It was recognized indeed, by the Dominion Government that its appropriation of the income tax field would embarrass the Provinces in their search for new sources of revenue through direct taxation. In introducing the income tax measure in the House of Commons, Sir Thomas White, Minister of Finance, made this significant statement:

"The Dominion Government, under the provisions of the British North America Act, is empowered to raise revenue by any mode or form of taxation, whether direct or indirect. On the contrary, the Provinces, and by consequence the municipali-

ties which derive their taxation powers from the Provinces, are confined, in the raising of their revenues, to measures of direct taxation. For this reason, since the outbreak of the war, I have hesitated to bring down a measure of federal income taxation. As I have stated, the provinces and the municipalities are confined to direct taxation, and I have not regarded it as expedient, except in case of manifest public necessity, such as I believe exists at the present time, that the Dominion should invade the field to which the Provinces are solely confined for the raising of their revenue."

That the Provinces also regarded the Dominion income tax as a distinct handicap is indicated by the following extract from a submission made to the Dominion Provincial Conference of 1918:

"The provincial representatives recognize that at such a time as the present it would not be wise to press the Dominion Government for immediate action on the several claims and expectations herein referred to. Without waiving any rights they have for the consideration of such matters at a more opportune moment, the provincial representatives respectfully suggest that since the income tax has been adopted by the Dominion Government as a war measure, it would be reasonable, in view of all the circumstances, that the Dominion should not leave to the provinces the duty of imposing new taxes of a similar character, but that the Dominion tax be treated as one for both Dominion and Provincial purposes, and that a proportion of the proceeds of the tax, say 50%, should be assigned by the Dominion to the provinces on a per capita basis to assist the provinces in meeting the pressing obligations of the time; this arrangement to continue during the war and for at least one year after the declaration of peace and that then the whole question of readjustment of the provincial allowances be taken up for consideration."

Further representations on this subject have been made on behalf of the Provinces at the Provincial Treasurer's Conference held at Ottawa in November, 1924, and at the Dominion Provincial Conference of November, 1927. The Attorney General of Ontario, Mr. Price, at that time suggested with respect to the income taxes,—

"The Dominion should follow the custom of Australia whereby the proceeds on personal income should be handed to the states, and those on corporations retained by the federal authorities."

The Minister of Finance, Hon. James Robb, stated the views of the Government at that time as follows:

"The recommendations of the provinces are double edged. First, there is the demand for increased expenditures by the Dominion Government, and on the other hand that we should withdraw from certain fields of taxation and revenue. Recommendations have been made that subsidies should be increased, that certain expenditures for varied means of transportation should be undertaken, that the old age pensions should be at the sole expense of the Dominion Government, etc. On the other hand, it has been urged that the Dominion should withdraw from the income tax field and other direct taxation sources, that we should reduce the customs and excise duties on liquors, etc. I have not made a minute calculation, but off-hand would estimate the varied recommendations involve either in expenditure or in the drying-up of sources of revenue, one hundred millions of dollars annually."

The Dominion, having appropriated the income tax field, the Provinces have collected additional revenue chiefly from such forms of taxation, already alluded to, as taxes on corporations, lands, succession duties, motor vehicle licenses, gasoline taxes, amusement taxes, and from liquor traffic control under a Provincial Commission.

From time to time the Dominion Government has recognized the inadequacy of Federal subsidies for purposes within Provincial jurisdiction. This was particularly noted in the grants for highways, agricultural education, and technical education, and all these were made contingent upon grants by the Provinces, though the Provinces were not all equally capable of assuming their respective shares of the expenditures on these services, which were required in order to take advantage of the Federal subsidies. The differences in the taxable capacity of the various Provinces were not given any consideration. In appointing the Jones Economic Commission the Government of Nova Scotia asked the Commissioners to consider the adequacy of the financial arrangements that now exist between the Province of Nova Scotia and the Dominion. The submission of the Government sought to show—

(1) "That Nova Scotia because of its relatively low taxable capacity was unable to meet the demand for increased Governmental services without imposing an intolerable burden upon its surviving industries and its declining population.

(2) "That the incidence of the Canadian tariff upon the economic life of Nova Scotia had contributed materially to its low taxable capacity.

(3) "That the financial difficulties of the Provincial Government could not be met satisfactorily or equitably by a re-allocation of the fields of taxation which it shares with the Dominion."

With the contention of the Government of Nova Scotia the Jones Commission substantially agreed, and, after concluding that the Province had exhausted all its available means of revenue, the Commission recommended that the Dominion should assume responsibility for the cost of old age pensions and unemployment insurance, and that the Dominion should continue grants for technical and agricultural education.

The enervation of the industry and commerce of the Province, due in large measure to the operation of Federal policies, has been reflected in a lowering of the wealth and income of the Province. This matter has already been dealt with in Chapter IV of this Submission, and it is unnecessary to repeat here the arguments there set forth. Let it suffice to say that the diminution of the revenue producing capacity of the Province has made it impossible for the Provincial Government to discharge adequately its duties under the constitution, or to meet suitably the desire and the imperative need for the inauguration of new or the extension of existing services, particularly in the social field.

Having regard to our Provincial wealth and income and our natural resources, we feel that we are making as strenuous an effort to secure needed revenue as any Province in Canada; indeed, more strenuous in many respects. Thus, in later passages of this Submission dealing with the matter of education, it will be shown that Nova Scotia, despite its low per capita wealth and income, is making a more vigorous effort to support education than are several other Provinces.

The main support of education falls primarily on the smaller or local units—the school sections. Most of the revenue available for these units is derived from taxes on real or personal property. The marked decrease in rural population in this Province in the last fifty years, and the fact that in the productive age groups the Province stands considerably lower than the Canadian average, indicates a serious drain on the productive powers of these local units, and involves at the same time a material increase in their expenditures for charitable and social services because of the unusually large percentage of the dependent age groups in the population make-up.

The burden of municipal finance falls almost entirely on real and personal property, and it is a burden already too heavy, and certainly a burden which cannot be further increased.

The municipalities of the Province are submitting to this Commission a Brief setting forth their views on these questions, which, doubtless, will be of value to the Commission. We should also like to refer the Commission to a memorandum on the problem of municipal finance, prepared by Dr. S. A. Saunders, and published as one of the appendices to the Jones Report.

Over all Provinces the tax revenue is secured mainly from income taxes, capital and corporation taxes, succession duties, gasoline taxes and automobile licenses. The revenue from these depends on the rate of taxation applied, and on the economic conditions in the various regions. For example, given the gasoline tax rates, the yield depends on the standard of living in the particular Provinces; given the tax rate on capital or corporations, the yield depends on the size and profitability of private enterprises. Generally speaking, the rates of these taxes are fairly equal as between the Provinces, and are about as high as they can be pushed under the existent system with its manifold taxes, and its conflicts between taxing authorities. In poorer Provinces in particular, where revenues are not buoyant, further increases in rates may affect the yields. With tax rates as high as they are at present, it is clear that any failure in providing adequate revenues must be attributable almost entirely to the economic conditions in the Province concerned.

It is not sufficient to try to measure any single Province's attempt to gather revenue by reference to its own tax system alone. The ability to gather new revenue depends on the existent tax burden in relation to the economic position, and the existent burden depends, not only on a Province's own tax system, but also on the tax system of the Dominion and the other Provinces. Some Provinces, because of their peculiar position, may have to bear a relatively great part of the incidence of Dominion taxes, and may even have to bear some incidence of the taxes raised in other Provinces. This shifting of incidence is undoubtedly present in the Canadian economy, with its specialized economic regions. Without pursuing this enquiry far, it is clear that if the firms of one region have a large element of price leadership in the markets of another region, there will be opportunities open to them to pass part of their taxation on to those other regions. In this way, part of the Dominion and Provincial taxes of some areas can be shifted to consumers (or producers) in other areas, and the shifting is mainly from the stronger to the weaker. Accordingly the capacity of the weaker outlying regions to expand their tax systems is limited, not only by their own economic weakness and their burden of Provincial taxes, but also to the extent that they are forced to bear part of the incidence of taxes raised by taxing authorities outside the Province itself.

Accordingly any attempt to review the tax structure of Provinces necessitates a review of the Canadian tax system as a whole. About the systems as a whole, the following points may be made.

(1) Since the question of shifting of tax incidence as between Provinces is an important one for the outlying regions in Canada, it is necessary to remember that the more direct the tax system (as in the case of income tax), the fewer the chances of shifting incidence.

(2) At present, the Canadian tax system is handled by different authorities, and as such is prone to result in tendencies that are inimical to the best interests of citizens and of government.

(a) Citizens suffer in so far as different tax authorities alter their own tax scheme without reference to the actions of other tax authorities. Thus there is no planned attempt at present to attain justice in the tax scheme as a whole, so that it will bear with equal (or proportional) burden on different regions and different individuals. The division of authority makes an equitable scheme difficult, but not impossible. It would be possible to arrange the tax scheme as a whole so that the inequalities created by one taxing authority would be compensated by those created by another authority, so that on balance the synthetic system would be equitable for regions and for individuals. But that would be difficult to arrange. An equitable system would differentiate between rich and poor by a progressive tax system, but the existent Canadian system tends to be regressive rather than progressive.

(b) For governments, the division of taxing power also created difficulties. In the conflict between these authorities, large firms frequently find it easy to resort to tax evasions.

(3) Much of the difficulty in Provincial budgeting is attributable to the change in social philosophy in the twentieth century. In most countries this change towards increased welfare and social services has moved *pari passu* with an increased dependence on direct taxation which is progressive in rate and differentiated as to the source of income. This growth of 'social' expenditure is usually coupled with the growth of progressive taxation. In Canada, however, attention has been focussed mainly on the expenditure side of this process and the tax system has not been adapted to the new expenditure requirements. Hence the budgetary difficulties.

From these three points of view, it appears that the need for an equitable tax system, and the need for a system that is efficient to the taxpayer and productive for the Government, can be met only by a greater concentration on a direct tax system for Canada as a whole. This would indicate a centralisation of income tax, corporation taxes and inheritance taxes in the hands of the Dominion Government, where they can be made national in scope, and a calculable element of progression incorporated within them. Apart from greater efficiency and productiveness, such a scheme would carry certain benefits to the weaker Provinces.

(a) A greater dependence on a direct and progressive tax system for Canada as a whole would reduce the chances of taxes being shifted to the outlying regions, because the progressive income tax is difficult to shift.

(b) It would remove the situation which now exists when Nova Scotia tries to tax companies that do business here but are not registered locally. It was some time after Confederation before the industry of the country began to be conducted by limited liability corporations. In the search for means of revenue this type of corporation has been a large contributor to Provincial finance. The Provinces, particularly the outlying ones, have experienced difficulty in dealing effectively with companies incorporated by the Dominion of Canada, so that they, with companies within the Provincial jurisdiction, should share alike in the taxation methods applied. The volume of business done by such companies organized by the Dominion with their central offices in Ontario and Quebec, is now very large, and many of them can not be reached for Provincial taxes. Smaller local firms suffer by losing business to those outside companies and having to pay a tax rate that is higher than it would be if those other companies were bearing their tax share. The powers of the Province should be so enlarged as to enable them to deal more effectively with such companies in the matter of taxation.

(c) It would offset the present preferred position of the central Provinces with respect to inheritance taxes. Profits (and inheritances therefore) built on Canadian industry as a whole, are now enjoyed by the central Provinces. Of the total succession duties collected in all Provinces in 1934, particulars of which are gathered by the Dominion Bureau of Statistics in "Financial Statistics of Provinces in Canada, 1934" the latest report available shows that Ontario enjoyed 59.1 per cent; Quebec secured 24.4 per cent and the other seven Provinces have the remaining 16.5 per cent divided among them. Subsequent years will show an even greater disproportion. If these succession duties were part of the national tax scheme, the redistribution of this revenue to the Provinces would be on a more equitable basis, and therefore, to the advantage of the weaker Provinces.

SPECIFIC NEEDS.

There are certain fields of Government activity in which, through inadequate sources of revenue, this Province is lagging behind, and these are notably the fields of education, public health, social services and agriculture.

I shall refer specifically to each of these subjects.

EDUCATION

The public schools of the Province are organized in what is known as the "district" system, in which each district (called "sections" in the school law of the Province) is primarily responsible for initiating and carrying on educational services within its boundaries. In the Province there are 1758 school sections, divided as follows:

Rural school sections.....	1480
Village school sections.....	233
Urban school sections.....	45

The *urban* sections are the incorporated towns and cities; the *village* sections include all other sections having more than one regular teacher; the *rural* sections are those in which only one regular teacher is employed.

The number of classrooms in operation in the various sections was 3320, in the school year 1935-36. (Unless otherwise indicated, all figures given hereafter will be from the report of the Superintendent of Education for 1935-36). The total enrolment of pupils in the twelve grades of the public school system is 116,888, divided as follows:

Elementary Schools (Grades I-VI)	81,383
Junior High Schools (Grades VII-IX).....	25,370
Senior High Schools (Grades X-XII).....	10,135

The public schools are supported by contributions from three sources: (1) Local rates and taxes, levied and collected by the school sections. (2) The municipal school fund, levied at the rate of \$1.00 per head of population in the various municipalities, and rated on the municipality as a whole (including incorporated towns and cities therein). (3) The largest contribution from the Province is what is known as provincial aid, which is paid direct to teachers semi-annually according to a graduated scale based on class of license, years of experience, and number of days taught by the teacher during the year. Revenues from the various sources in 1936 were:

Local rates and taxes.....	\$2,556,905
Municipal school fund.....	516,458
Provincial treasury.....	1,148,002

Total.....\$ 4,221,365

Comparative Ability Of Nova Scotia To Support Education

Since the support of public education is left entirely to the various Provinces, a study of the relations between the Federal and Provincial

Governments, particularly with respect to finance, should include a comparative study of the abilities of the various Provinces to support education. The ability of a Province to provide educational services and other governmental services is, of course, almost directly proportional to its wealth—presuming that the wealth gives rise to the income from which the services are supported. The following table shows the per capita wealth of the Provinces, with Nova Scotia at the foot of the list:

Table 1

Per Capita Wealth of the Canadian Provinces, 1936 ⁽¹⁾

British Columbia.....	\$ 3,414
Alberta.....	2,721
Saskatchewan.....	2,711
Ontario.....	2,468
Quebec.....	2,269
Manitoba.....	2,201
New Brunswick.....	1,739
Prince Edward Island.....	1,558
Nova Scotia.....	1,514

Perhaps a better measure of the comparative ability of the Provinces to support education is the assessment of real and personal property per class-room, since almost the whole of local revenues for education in the provinces is derived from taxes on real and personal property.

Table 2

Assessed Valuation per Classroom in the Canadian Provinces, 1934 ⁽²⁾

British Columbia.....	\$ 170,551	
Ontario.....	169,196	
Saskatchewan.....	161,321	
Manitoba.....	118,824	
Quebec.....	111,704	
Alberta.....	99,296	(Certain local sections
New Brunswick.....	67,124	omitted)
Prince Edward Island.....	61,941	
Nova Scotia.....	52,278	

Here, too, Nova Scotia ranks last among the nine Provinces.

In comparison with Nova Scotia's ability to support education, its effort to support education may be shown by tables giving expenditure per pupil, and average salaries of rural school teachers:

(1) *Canada Year Book*, 1937, p. 863.

(2) Assessment from *Canada Year Book*, 1937, p. 857

Table 3

Expenditure Per Pupil in Average Daily Attendance, 1934 ⁽¹⁾

Ontario.....	\$ 83.33
British Columbia.....	82.79
Alberta.....	82.47
Manitoba.....	62.75
Quebec.....	54.17
Saskatchewan.....	54.10
Nova Scotia.....	45.15
New Brunswick.....	41.08
Prince Edward Island.....	38.15

Table 4

Average Annual Salary of Teachers in Rural Schools ⁽²⁾

(1936 or latest year recorded)

British Columbia.....	\$ 949
Ontario (Public).....	744
Ontario (Separate).....	741
Alberta.....	723
Manitoba.....	601
Nova Scotia.....	536
New Brunswick.....	509
Prince Edward Island.....	481
Saskatchewan.....	465
Quebec (Lay Protestant).....	405
Quebec (Lay Catholic).....	212

These tables show that Nova Scotia, although lowest in the two criteria of ability to support education, is third from the last in per pupil expenditure and fifth from the last in salaries of rural teachers. The inference is that Nova Scotia is making considerably more effort to support education, in view of her resources, than the Provinces listed below Nova Scotia in the tables given above.

The average annual salary for rural school teachers in Nova Scotia—\$536—includes teachers in village schools of several departments and includes also amounts paid direct to teachers from Provincial aid. The salaries actually paid teachers by the localities (i. e. school sections) are much lower (\$383 in 1936). Even with the Provincial aid, however,

(1) *Annual Report of the Superintendent of Education for Nova Scotia, 1935. p. xiii.*

(2) Dominion Bureau of Statistics—*Status of the Professions in Canada*, Bulletin No. 2, 1937, p. 8.

the salaries are low—the equivalent of \$10.31 per week if spread over the whole year—and it cannot be expected that the Province will have a highly trained and serious group of rural school teachers so long as salaries remain at the present level.

Relation Of Provincial Expenditure On Education To Municipal and Local Expenditure

It is also important to show the relative ability of the various governing bodies within the Province to support the burden of education. That the Provincial Government is making comparatively great efforts to support education may be seen from the following table, which shows the percentage of Provincial Government expenditure on education to the total expenditure on education in the various Provinces:

Table 5

Percentage of Provincial Government Expenditure on Education
to Total Expenditure on Education by Provinces (1934) ⁽¹⁾

Prince Edward Island.....	65.8%
British Columbia.....	29.9
Nova Scotia.....	25.8
Quebec.....	22.4
Saskatchewan.....	20.3
New Brunswick.....	17.3
Manitoba.....	15.9
Alberta.....	14.9
Ontario.....	12.0

The table shows that Nova Scotia stands third among the Provinces in the contribution of the Provincial Government to the total expenditure on education in the Province. A similar table, comparing the total expenditure for all purposes, shows that Nova Scotia stands fourth.

Table 6

Percentage of Provincial Government Expenditure on Education
to Total Provincial Expenditure for All Purposes (1934) ⁽²⁾

Prince Edward Island.....	24.7%
Quebec.....	12.8
Saskatchewan.....	12.5
Nova Scotia.....	12.4
Ontario.....	11.9
British Columbia.....	11.2
Alberta.....	9.6
New Brunswick.....	9.2
Manitoba.....	8.7

⁽¹⁾ *Annual Report of the Superintendent of Education for Nova Scotia, 1935, p. xiii.*

⁽²⁾ *Annual Report of the Superintendent of Education for Nova Scotia, 1935, p. xiii.*

And the Province's contribution to education has been growing. In the decade from 1926 to 1936 the percentage of the whole cost of education contributed by the Provincial treasury increased from 18.3 to 27.2, with a corresponding decrease in the percentage contributed by the municipalities and the school sections.

An examination of the contributions made by the municipalities and sections to education will show many signs that these bodies are now contributing up to the limit of their capacity, and that the sections, particularly, even with great effort are in many cases not able to support even a meagre minimum of education. Evidence will be submitted elsewhere on the general financial condition of the municipalities, but it has been known in the Education Office for some time that the municipalities find the burden of the municipal school fund too great for their resources. "In some counties it is not being collected in full or on time, and disbursements to the school sections are often long overdue."⁽¹⁾ In many counties, due to a decrease in population (with the number of schools to be supported remaining the same) the municipal fund no longer pays to the sections even the \$120 per teacher. In Inverness County the municipal fund has dwindled to \$95 per teacher, with no balance available for assisted sections.

The picture in the sections is even more depressing. There are evidences that an increasing number of rural sections are unable to provide for education from their own resources. Accumulated arrears in rural teachers' salaries up to, and inclusive of, the school year 1935-36 were \$187,292. The number of sections requiring special assistance from the Provincial treasury (in the form of "special assisted" and "remote" grants) and from the municipal fund has increased from 381 to 597 between 1930 and 1937, with a particularly marked increase in the last two years. The number of "special assisted" sections, which have an assessed valuation of less than \$4,000, has increased from 36 to 56 in the same period, and the number receiving "remote" grants (a term which now covers any needy section whose needs cannot be supplied from the municipal fund) increased from 20 to 173.⁽²⁾

Another evidence of poverty is the number of one-room rural schools with enrolments over fifty—112 of these in the school year 1936-37—unable to employ another teacher or to make the necessary addition to the school building if the teacher could be employed. There are a few sections, on the fringes of growing urban communities, which are unable either to erect a school house or to employ a teacher. Their children are being educated by the nearby towns, but the sections themselves can make no contribution whatever to the education of their own children.

(1) *Annual Report of the Superintendent of Education for Nova Scotia, 1935*, p. xiii.

(2) Figures from the *Journal of Education* for October, 1930, and for October, 1937.

Conclusions and Recommendations with Respect to General Education.

The preceding sections indicate that the rural sections of the Province are finding it increasingly difficult to support their schools. They can scarcely be expected, as a whole, to improve their standards or to expand their offerings. At present the rural schools of the Province give only the barest minimum of general education. The majority of them attempt to teach high school subjects in addition to the work of the first eight grades, and almost invariably they do it badly. Figures from the Common Examining Board of the Maritime Provinces and Newfoundland show that of the candidates from rural schools who attempt the examinations of Grade XI about 25% are successful, while about 60% of candidates from urban centres are successful. In addition, the rural schools can rarely give good instruction in the "special" subjects, such as music, art, crafts, mechanic and domestic science.

A study made by the Education Office in 1931 showed that a sum of \$375,000 annually would be needed to raise the salaries of rural and village teachers to a minimum of \$600.00 per teacher, exclusive of Provincial aid, and there is no reason to believe that the sum would be any less at present. If further stimulus were to be given to rural education by the establishment of rural high-schools, at least \$100,000 more would have to be provided annually. If the Province wished to establish circuits for the teaching of music, art, manual training and domestic science (subjects just as essential to a well-rounded education in rural districts as they are to town pupils), such additional teachers would cost \$144,000 annually, allowing only two such teachers for each county. (\$1,000 per teacher—salary, equipment and travelling expenses.)

The total cost of these desirable extensions to general education would be approximately \$650,000 annually. This is a low estimate, and omits many costs which might be assumed if children in rural sections are to be given opportunities for education equal to those offered in the towns and cities.

If the evidence submitted to the Commission in other reports shows that the Provincial treasury is unable to secure revenues for any extensions to educational services in the Province, and if the Commission feels that the educational services in the Province, particularly those in rural schools, should be improved, then the conclusion follows that any additional revenue for general education must come from the Dominion treasury. Whether this is given to the Provincial government as part of a lump sum for general governmental purposes, or as a sum especially earmarked for general education is not material, provided the necessary services indicated above are established and maintained.

Recommendations With Regard To Special Educational Services.

The information given above refers entirely to general education—a charge legitimately placed on the Provinces and one which the Province is supporting to the limit of its ability. There are, however, certain aspects of education which are of federal importance, because of their relation to the national economy and national well being. These are technical education, agricultural education, and health services for the schools. Artisans and technicians trained in Nova Scotia may move to other Provinces and carry on their work there; the same is true, to a lesser degree, of persons technically trained in agriculture. Even if they remain in the Province, however, the contribution they make to industry and agriculture is a contribution as much to the Dominion as a whole as to the Province, particularly if they are engaged in producing goods that are sold outside the Province. The importance of the health of the people to national defense is obvious. Paradoxically, it was found in the last war that people from the country, although they had lived outdoor lives, had as low a standard of general health as dwellers in the towns. In Nova Scotia it is the health of rural school pupils that needs most attention, for they now have very inadequate school health service.

The Dominion Government recognized the importance of vocational education in the Technical Education Act of 1919 ⁽¹⁾, under the terms of which the Province was reimbursed for 50% of its expenditure on secondary technical education. The terms of the Act expired in March, 1936, and left the Provincial treasury to bear the burden of supporting the evening technical schools and coal mining schools that had been established under the Act. This, of course, was the original intention of the Act, which as its title indicates was only for the "promotion" of technical education and not for its perpetual support. However, it has been shown above that the Province has difficulty in supporting general education, and the added burden of supporting technical education can only result in postponing additional expenditures for general education. Approximately \$50,000 per year was received by the Province under the terms of the Act, a sum which would be sufficient to bear the interest and retirement charges on the capital expenditure for the proposed rural high schools. Further, the demand for technical education in the Province is growing steadily. For many years the urban communities felt no need for vocational training, and the Province as a whole was slow to take advantage of the provisions of the Act. But within the past few years several of the larger communities have established in their high schools departments for commercial education, and there is a demand in several of the industrial towns for the erection and establishment of full time vocational schools. Technical education, however, is expensive and the communities in the Province which need vocational schools are not able

(1) *An Act for the Promotion of Technical Education in Canada*: 9-10 George V, Chap. 73.

to bear both the cost of erecting and equipping vocational schools and of supporting them when they are established. The Department feels that on the grounds of national interest the Technical Education Act of 1919 should be revived.

The Dominion also has recognized the importance of agricultural education, by the Agricultural Instruction Act of 1913. Under this Act the Rural Education Division of the Department of Education was established, grants were given to agricultural extension work, and the Provincial Agricultural College. The grants to the Province from 1913 to 1924, when the Act expired, were on the average \$82,000 per year. The Department of Education has continued its Rural Education Division (although the staff has been cut down since 1933), and the Department of Agriculture has continued and expanded its agricultural extension work. The Department of Education thinks, however, that agricultural education of a secondary school grade should be established in the Province. There is an insistent demand for instruction in agriculture in rural schools. Such a demand is out of place, of course, if applied to the one-teacher rural school, for such schools can scarcely provide the elements of general education. If, however, the rural high schools were established as indicated above these schools could well employ a specialist in the teaching of agriculture (who might also be the teacher of Science in the school—a combination quite popular in small high schools in the United States). Such a teacher would have time to teach the elements of scientific agriculture and would be teaching pupils sufficiently mature to profit from the instruction. An arrangement could be worked out whereby theory could be combined with practice, either by a school agricultural plot or by a cooperative arrangement with the farms in the neighbourhood. High schools already established in country towns and villages should also offer secondary school courses in agriculture and have special teachers for the purpose. Probably 100 teachers would cover the Province—but 100 teachers of the type needed would cost at least \$100,000 annually, and this sum cannot be raised by the rural sections and country towns. At present there is a great revival of interest in agriculture in the Province and a demand for knowledge as to how to make agriculture more profitable. This demand might be met by the provision of federal aid to secondary school instruction in agriculture, at least to the extent of fifty percent of the Provincial expenditure on such instruction.

The demand for knowledge about scientific agriculture is not confined to pupils at school. The adult farmers of the Province are perhaps more interested in improving their own knowledge than in the provision of instruction for their children. The extension work being done by the Department of Agriculture meets this need in part; and it is met partly by the study clubs established under the direction of St. Francis Xavier University. Short courses and correspondence courses given

by the Nova Scotia College of Agriculture provide others with information. But there is no place to which a farmer may go for short periods of intensive training in agriculture of a less advanced type than that given by the Agricultural College. The Department feels that any programme of agricultural education should consider the establishment of centres to which adult farmers can go for instructions—centres similar to the more vocational of the Danish Folk High Schools which are attended entirely by adults. Adult farmers do not wish to attend the same schools as their sons and daughters and the majority of them lack the background of general education which their children in high school grades possess. If assistance to agricultural education is to be provided by the Dominion, provision should be made for the establishment of adult agricultural schools of not too advanced a type in the main agricultural districts of the Province.

The third matter referred to in this section—health services for schools, particularly those in rural districts—has received no attention heretofore from the Dominion Government and little from the Department of Education. The Province has an up-to-date course of study in health, with a graded series of textbooks from Grades V to IX, and the teaching of health is emphasized at the Normal College. The Junior Red Cross Society each year has about 1000 branches in the schools, with approximately 30,000 children enrolled as members, and its work stresses the importance of the formation of health habits. The St. John Ambulance Association offers two courses each year at the Nova Scotia Summer School, and teachers trained in these courses offer instruction in First Aid in their schools. As far as instruction in health is concerned, then, the Province is doing as much as it can, and perhaps more than some other Provinces. What is lacking to a large extent are actual health services—regular examination of children, regular clinics, special classes for children with various health defects. The Department of Health has fourteen school nurses who spend a great deal of their time in the rural schools, but they cannot possibly visit all the rural schools in the eighteen counties of the Province often enough. Their work must necessarily be hurried and follow-up work almost impossible. As a contrast, the city of Halifax employs four full-time nurses for school work alone. With regard to clinics, three regular employees of the Department of Health conduct “chest clinics” in the rural areas once a year. Apart from that, rural school pupils have no access whatever to public health clinics unless they live near towns which have clinics. There are no dental clinics available for rural school pupils—and in consequence the teeth of rural school children are almost invariably badly cared for and are responsible for much of the poor health in rural districts. Such services as classes for crippled children, open-air classes, sight saving classes, special centres for corrective physical training to correct posture defects—all of which form part of the school systems of wealthy cities in the United States, England and Germany—are not even thought of in connection

with our rural schools, and would not be asked for by the Department. But assistance should be given either to the Department of Health or to the Department of Education to increase the number of school nurses available for rural schools, and maintain at least one general health clinic and one dental clinic for each county.

Excluding the expenses of health services, in so far as these services relate to schools, it is estimated that to bring education in this Province to its proper position a sum of Seven Hundred Fifty Thousand Dollars over and above the amount now being expended will be necessary.

PUBLIC HEALTH

Probably no function of Government has shown such expansion in recent times as Public Health activity, and more and more the importance of Public Health to the welfare of the nation is becoming recognized. The Province-wide control of infectious diseases, the advancement of maternal, child and school hygiene, the collection of vital statistics, the management of sanitation, the general supervision of the health activities of local units within the Province, the education of the people in health matters, the promotion of certain social measures which have a direct bearing on public health are, or ought to be, proper fields for the expenditure of public moneys.

Within recent years this Province has embarked on two social measures of great importance, namely, the payment of mothers' allowances and of old age pensions. In mothers' allowances payments we are not so generous as many Provinces, either in the amounts granted to deserving mothers, or in the type of case which comes within the scope of our Act. Thus, the maximum payment to a widow in Nova Scotia, no matter how large the family, is \$60.00. In most of the other Provinces the maximum is greater. In Nova Scotia mothers' allowances or pensions are paid only to widows who have two children under the age of sixteen. In some Provinces benefits of such Acts are extended to widows with one child, and to mothers whose husbands are incapacitated through illness, insanity or certain other specified conditions.

So far as old age pension payments are concerned, the average monthly payment for pensioners in the Maritime Provinces is lower than in the rest of Canada.

The table given below indicates the average monthly payment to old age pensioners in every Province of Canada:

Alberta.....	\$18.27
British Columbia.....	19.20
Manitoba.....	18.68
New Brunswick.....	13.50
Nova Scotia.....	14.63
Ontario.....	18.32
P. E. I.....	10.63
Quebec.....	17.95
Saskatchewan.....	16.51
N. W. T.....	18.98

The Department of Public Health in this Province should have further moneys for the development of public health units, for more extended services in the fields of maternal and child welfare and school hygiene, and for more generous provision in relation to other matters of social welfare which, in this Province, are administered by the Department of Public Health. For these purposes no less than Five Hundred Thousand Dollars yearly is immediately required, over and above the present expenditures of this important Department.

The above estimate does not take into consideration any sum for slum clearance and housing. The Province is willing to join with the Federal Government and with municipal authorities in making some provision for this very important and necessary social measure. Three years ago the Province set aside a sum of \$200,000 as its initial contribution to a housing scheme. Due to difficulties local in character, no part of this fund has yet been expended, but unquestionably the need for better housing in our cities and larger towns is a matter to which all governing bodies must in the near future give serious attention.

AGRICULTURE

Mention has already been made of the withdrawal in 1924 of grants made by the Federal Government to the Provinces in aid of agriculture. It is the opinion of the Government of Nova Scotia that the services of the Department of Agriculture should be extended in several directions, with the view of arousing a greater interest in agriculture among our people, and with a view, too, of inducing more Nova Scotians to adopt agriculture as a life vocation. With this end in view it is felt that there should be provided at the Nova Scotia Agricultural College at Truro summer courses for rural teachers. In this work the staff of the Provincial Normal College at Truro would cooperate, and it is hoped that as a result of these courses rural teachers would be better equipped, and able to give a higher type of leadership in rural communities than is now available.

Other desirable activities by the Provincial Department of Agriculture are attention to dairy herd improvement (the expense of which was formerly borne by the Federal Government), increased agricultural grants with a view to improving the standard of livestock in the Province, and added provision for agricultural extension work and agricultural education generally.

The proper expansion of the work of the Department of Agriculture will, it is estimated, involve an additional expenditure of One Hundred Thousand Dollars.

FISHERIES

With regard to fisheries, the Government of Nova Scotia seriously considered whether or not it should ask the Federal Parliament to return control of the fisheries to this Province. On reflection, however, we concluded that unless we had the power to negotiate for markets and also had some control over transportation arrangements, it would be doubtful whether the Province should embark on Provincial control.

The problem of international treaties and international agreements as to fishing waters would also render difficult of success a scheme of Provincial control.

The Government of Nova Scotia feels that the Federal authorities should continue and enlarge upon the present activities of their staff in fisheries research and experimentation, and that a greater measure of control should be vested in the Federal Supervisor of Fisheries for the Maritime Provinces. The Province has endeavoured to assist the fishermen of Nova Scotia by contributing in equal shares with the Dominion Government to a loan plan for needy fishermen, and by undertaking solely out of its own resources the payment of a bonus on dried fish. These activities might well be regarded as beyond the ordinary scope of a Provincial Government's functions, but the plight of the fishermen of Nova Scotia in recent years has been so critical that this Government felt obliged to come to their assistance to the extent of its resources. The Government is willing to embark, in conjunction with the Federal Government, on schemes having in mind the training of fishermen in improved methods of preparing and marketing their products, and in general educational work of that character.

Inasmuch as fishing is one of Nova Scotia's most important industries, and in many respects, perhaps, the most distinctive and typical, it is the view of the Government that it should appoint a Provincial officer, in the capacity of Provincial Supervisor or Director of Fisheries, who would give attention to problems of marketing, the education of our fishermen along industrial lines, transportation and freight rates on

fish, and, generally, all other matters affecting the welfare of this important industry. The value of our fisheries today, despite our unrivalled natural advantages in this industry, is little if any greater than it was fifty years ago, and it is true to say that no class of our people has suffered more heavily than our fishing people, or has accepted its reverses with greater patience. We are convinced that the appointment of such an official as we have named would be beneficial, and, accordingly, we propose to set aside the sum of Fifty Thousand Dollars as the initial annual expenditure for this purpose, and for the other purposes referred to in this and the immediately preceding paragraph.

SINKING FUNDS

The amount paid into Sinking Funds or used for debt retirement during the last fiscal year was \$379,171. The gross debenture debt of the Province at the end of the same fiscal year was \$95,219,246.

Following the report of Messrs. P. S. Ross and Sons, Provincial Auditors, made in 1934, which stated that until the Government could achieve a balanced budget, it would be wise to forego sinking fund provisions on new bond issues, the Government made no provision for sinking funds in respect of new loans from 1934 until 1937. Indeed, at no time in the history of the Province have the Provincial Sinking Funds been at all adequate. The total amount now in Sinking Funds is \$6,371,632. It will be seen at a glance that this is an entirely inadequate amount for a funded debt of nearly \$77,000,000, exclusive of Power Commission borrowings and other self liquidating liabilities.

GENERAL ADMINISTRATION

Generally speaking, the indemnities paid to members of the local Legislature, and the salaries paid to Provincial Ministers of the Crown, are lower in the Maritime Provinces than in any other parts of Canada. Thus, the sessional indemnity of members of the Nova Scotia Legislature is \$1,000 per year. Excluding the two other Maritime Provinces, this is the lowest indemnity in Canada. The scale of indemnity has been unchanged for twenty-five years. Sessions of the Legislature last normally about two months, but the enlarged scope of Government activity in recent years involves heavy demands on the time and purses of the members of the Legislature throughout the year. The sessional indemnity of members should be increased by at least fifty per cent.

Salaries of Ministers are lower than the average for Canadian Provinces, and these, too, should be increased from the level at which they were fixed fifteen years ago.

Out of six Ministers holding portfolios in Nova Scotia three have no Deputies to assist them in their work, namely, the Minister of Highways, the Minister of Agriculture, and the Minister of Health. This condition is unfair, both to the Ministers themselves, and to the people of Nova Scotia, and it should not be allowed to continue.

The Province has a Superannuation Act, making provision for a fund to which Provincial employees and the Government shall contribute in equal parts. The Government has not been able to bring this Act into proper operation, due to the condition of Provincial finances. It should immediately, however, begin to set aside yearly a proper proportion of its revenues for the purpose.

It is estimated that the items just referred to would involve an additional expenditure of at least One Hundred Thousand Dollars.



PROVINCE OF NOVA SCOTIA

ROYAL COMMISSION ON
DOMINION-PROVINCIAL RELATIONS

APPENDICES

FEBRUARY - 1938

PROVINCIAL AND MUNICIPAL TAX SYSTEMS, NOVA SCOTIA, AS OF JANUARY 1st, 1938.

Prepared as Appendix to Submission of Government of Nova Scotia to the Royal Commission
on Dominion-Provincial Relations.

Legal citation with amendments to date that affect taxation	Title of Tax with due date of payment	Basis of Tax	Measure of Tax	Rate of Tax	Administration of Tax Assessment Collection
LEVIED BY PROVINCE.					
Companies Act, 1935, Chapter 6.	Corporation Organization, or of increase of capital.	Privilege of forming a Corporation or increasing Capital Stock of Corporation already formed.	Authorized Capital Stock.	Various fees as fixed by statute based on authorized capital.	Registrar of Joint Stock Companies.
Domestic Dominion and Foreign Corporations Act R. S. N. S. 1923 Ch. 173.	Registration fees annually in January.	Transacting business for the purpose or object of gain.	Authorized Capital Stock.	Various fees as fixed by statute based on authorized capital.	Registrar of Joint Stock Companies
Provincial Revenue (Corporations) Act, R. S. N. S. 1923 Chap. 16.	Corporation Tax, annually in June based on returns business preceding year.	Every Company, firm, partnership, or individual transacting business in Nova Scotia.			
Ann. 1924 Ch. 16 1925 Ch. 22 1926 Ch. 16 1929 Ch. 20 1931 Ch. 16 1932 Ch. 20 1934 Ch. 16 1935 Ch. 21 1936 Ch. 12 1937 Ch. 15		Banks.	Capital, reserve and undivided profits, offices and average monthly volumes of business.	Capital \$500,000 upwards, office in City of Halifax—\$7500. Each additional office in Halifax—\$150.	Provincial Secretary.
				\$600 for additional offices up to 10 in number.	

Legal citation with amendments to date that affect taxation	Title of Tax with due date of payment	Basis of Tax	Measure of Tax	Rate of Tax
LEVIED BY PROVINCE (Cont'd.)				
				\$300 for each office in addition to 10th up to 20th.
				\$150 for each office over 20th.
				Capital \$500,000 up- wards, no office in City of Halifax \$2,500 and \$250 for each office not exceeding 10 in number.
				Capital less than \$500,000 \$1000 and \$150 for each office.
				1 10 of 1% capital em- ployed in N. S. (reck- oned as 1/15th of total paid up capital, reser- ves, etc.)
				Where less than 5 of- fices in N. S. reduction to 1 20th of 1% of capital may be made.
				1/20 of 1% of average monthly volume of business up to \$15,000,000 and 1/60th of 1% in excess of \$15,000,000.

Provincial
Secretary

Legal citation with amendments to date that affect taxation	Title of Tax with due date of payment	Basis of Tax	Measure of Tax	Rate of Tax	Administration of Tax Assessment Collection
LEVIED BY PROVINCE (Cont'd.)					
		Insurance Companies.	Premium income in Nova Scotia.	2½% gross premiums received in N. S. (Minimum \$100.00).	
		Reciprocal or Inter-Insurance Exchange.	Premium income in Nova Scotia.	2½% of gross premiums received by exchange.	
Corporation Tax annually in June based on returns of business preceding year.		Loan Companies.	Capital funds invested in N. S. and deposits.	1/15th of 1% on capital and 1/8th of 1% on moneys invested in N. S. Minimum \$100. Deposits received \$25 on each \$100,000 to \$1,000,000; \$15 on each \$100,000 to \$2,000,000; \$5 on each additional \$100,000 over \$2,000,000.	Provincial Secretary.
		Trust Companies.	Capital and gross income in N. S.	1/4 of 1% on capital up to \$600,000. 1/8 of 1% on each additional \$100,000. Minimum \$200. 2% of income up to \$25,000. 2½% of income up to \$75,000. 2¾% of income in excess of \$75,000.	
		Telegraph and Cable Companies.	Flat rate. Money invested in N. S.	\$500,000 1% of investments.	
		Telephone Companies.	Paid up Capital.	¼ of 1% of paid up capital and additional 1/8 of 1% on capital over \$500,000.	

Legal citation with amendments to date that affect taxation	Title of Tax with due date of payment	Basis of Tax	Measure of Tax	Rate of Tax	Administration of Tax Assessment Collection
LEVIED BY PROVINCE (Cont'd.)					
			Gross income.	For Company with paid up capital in excess of \$30,000, 3% additional of gross income,	
			Instruments.	25c on each telephone used.	
			L. D. Messages.	5c on every L. D. message over 25c.	
		Gas and Electric Companies and Electric Tramways.	Paid up capital.	1 of 1% of paid up capital and additional 1 8 of 1% on capital over \$500,000.	
			Gross income	For company with paid up capital in excess of \$30,000, 3%. Additional of gross income from all sources, except on gas plants, which is 2% and on electric tramways, which is 1%.	
			Meters.	25c for each electric and gas meter used.	
		Finance Companies.	Paid up capital. Principal and branch offices.	1 8 of 1% of paid up capital (Minimum \$200), \$500 for principal office and \$250 each additional office.	
		Express Companies.	Mileage in N. S.	\$1250 for each 100 miles.	

Legal citation with amendments to date that affect taxation	Title of Tax with due date of payment	Basis of Tax	Measure of Tax	Rate of Tax	Administration of Tax Assessment Collection
LEVIED BY PROVINCE (Cont'd.)					
		Railway Companies.	Track Mileage in N. S.	\$50 per mile of single track on main line or branch line exceeding sixty miles, \$80 per mile of each add. track on main line, \$30 per mile of single track on branch line. An additional \$20 on main line and \$15 on each additional track respectively if line exceeds sixty miles.	
		Public Utilities.		50% of excess earnings over 8% in any year.	
	Corporation Tax annually in June based on returns of business preceding year.	Incorporated Companies, firms, partnerships, and individuals.	Paid up capital employed in N. S. of \$5000 and over.	1/8 of 1% of paid up capital. 1/10 of 1% of paid up capital in excess of \$5,000,000. 1 15 of 1% of the excess of paid up capital over \$50,000,000.	Provincial Secretary.
	Chain Stores (additional) 2 or more stores.		No. of Stores.	Where annual revenue of such store exceeds \$25,000,— \$15 per store up to 5 in number. \$40 per store over 5 up to 10 stores. \$100 per store over 10 in number. Store with gross revenue of \$150,000 regarded as 3 stores.	

Legal citation with amendments to date that affect taxation	Title of Tax with due date of payment	Basis of Tax	Measure of Tax	Rate of Tax	Administration of Tax Assessment Collection
LEVIED BY PROVINCE (Cont'd.)					
		Chain Stores (Cont'd.) (additional) 2 or more stores.	No. of Stores.	From \$150,000 to \$750,000 one additional score for every \$150,000 of gross revenue. Over \$750,000 one additional score for every \$250,000 of gross revenue.	
Insurance Agents Act R. S. N. S. 1923 Chap. 122.	Licenses payable by insurance agents date of application and annually October 1st.	Privilege of doing business in N. S.	Flat rate.	\$3 to \$10 residents N. S. Half-rate from June 1 to October 1. \$10 to \$50 non-residents.	Deputy Provincial Secretary.
Fire Prevention Act. R. S. N. S. 1923 Ch. 154.	Fire Marshall tax. Fiscal year ending before Dec. 31st of preceding year, annually.	All Fire Insurance Companies.	Premiums, receipts, and assessments.	Amount necessary to cover expenses of Fire Marshall's office. Not more than 3/4 of 1%.	Registrar of Joint Stock Companies.
Registration of Partnerships' Act R. S. N. S. 1923 Ch. 205.	Registration Fees. Annually January.	Privilege of doing business under Partnership Act, and using name other than own.	Flat rate.	\$5 per partner. After July 1st, \$2.50.	Deputy Provincial Secretary.
Security Frauds Prevention Act N. S. 1930 Ch. 3.	Licenses, brokers, security salesmen, and non-brokers. Annually October 31st.	Supervision and control.	Flat rate.	Brokers \$25. Salesmen \$5.	Registrar under The Securities Act.
Land Tax Act. R. S. N. S. 1923 Ch. 17.	Forest Lands Tax. Annually January 1st.	All Forest Land areas.	Value of land over 1000 acres.	1%.	Assessment—Board of Land Assessors. Collection—Provincial Treas.
Lands and Forests Act N. S. 1926 Ch. 4.	Licenses—Hunting. Date of application and annually.	Privilege of hunting, trapping, or dealing in or storage of game.	Flat rate.	Hunting \$2 to \$50. Dealers \$25 to \$100.	Assessment—Dept. of Lands and Forests Collection—Provincial Treas.

Legal citation with amendments to date that affect taxation	Title of tax with due date of payment	Basis of Tax	Measure of Tax	Rate of Tax	Administration of Tax Assessment Collection
LEVIED BY PROVINCE (Cont'd.)					
Public Highways Act. R. S. N. S. 1923 Ch. 7.	The cities and towns. Highway Tax. Annually date of assessment.	Maintenance, etc. of Highways.	Net assessed value of property or income for purposes of city or town	1/10 of 1%.	Assessment—City or Town Assessor. Collection—City or Town Treasurer.
Public Highways Act. R. S. N. S. 1923 Ch. 7.	The Municipalities Highway Tax. Date of Assessment and annually.	Maintenance, etc. of Highways.	Net assessed value of property or income for purposes of the municipality. Taxpayers.	3/5 of 1% of assessed value, \$3 for each poll-tax payer not otherwise assessed. \$1 for each poll-tax payer also assessed on real or personal property or income.	Assessment—Municipal Assessor. Collection—Municipal Treasurer.
Motor Carriers Act. R. S. N. S. 1923 Ch. 78. Am. 1926 Ch. 33 1927 Ch. 27 1929 Ch. 32 1937 Ch. 29 (not proclaimed)	Motor Carriers License. March 31st annually.	Privilege of transporting goods or passengers for compensation.	Bus operated.	\$10 per year each bus 2% of gross revenue. Fee for rescission of license—\$10. Fees not yet fixed.	Motor Vehicle Department.
Motor Vehicle Act. 1932 Ch. 6.	Registration of Motor Vehicles. Annually March 31.	Ownership and operation of motor vehicles.	Weight for passenger cars. Combined weight and load of vehicle for commercial cars.	Passenger cars 72c per 100 lbs. Minimum \$12.24. Commercial cars for general operation 40c to 75c per 100 lbs. Minimum \$16. Special permit for restricted highways increase of 5c per 100 lbs. Motor cycle \$6. Dealers— Business license \$10. Sub-Dealers Business license \$5; County License for each Co. \$2; Additional show room each \$1. Plates—\$10 per set. Motor cycle dealers license \$5. Motor cycle plates per set—\$10. Dealers special plates—\$25.	

Legal citation with amendments to date that affect taxation	Title of Tax with due date of payment	Basis of Tax	Measure of Tax	Rate of Tax	Administration of Tax Assessment Collection
LEVIED BY PROVINCE (Cont'd.)					
Gasoline Tax Act. N. S. 1926 Ch. 2. Am. 1927 Ch. 54 1929 Ch. 60 1932 Ch. 46 1934 Ch. 43	Gasoline Tax. Monthly 12th day.	Sale of gasoline to purchaser collected through manufacturers and importers with refunds for farmers, fishermen, and use in coastal and ferry boats, and in prospecting and developing gold and associated metals.	Gasoline sales.	8c per gallon.	
Gasoline Licensing Act. 1934 Ch. 2.	Gasoline Licensing. Annual.	License to sell gasoline.	Flat rate.	Retailers license—\$2 per pump. Wholesalers license graduated according to quantity of gasoline sold.	Board of Public Utilities.
Fuel Oil Tax Act. 1934 Ch. 3. (To be proclaimed)	Fuel-oil. Monthly.	Consumer of fuel-oil for heating purposes.	Fuel-oil sales.	1c per gallon. Dealer's annual license—\$1.	Provincial Treasurer.

Chaulleurs \$5.
Operators \$1.
Beginners \$1. Fee—\$1.
Examination
Replace lost permit—
25c.
Replace lost plates, per
set \$1.
Registration new cars
or change of owner-
ship \$2.

Legal citation with amendments to date that affect taxation	Title of Tax with due date of payment	Basis of Tax	Measure of Tax	Rate of Tax	Administration of Tax Assessment Collection
LEVIED BY PROVINCE (Cont'd.)					
The Theatres, Cinematographs, and Amusements Act, R. S. N. S. 1923 Ch. 22. Am. 1934 Ch. 39.	Licenses—Theatres, Film Exchanges, Projectionists, Places of Amusement. Annually Sept. 30th.	Supervision and control.	Flat rate.	Film exchange \$250. \$3 per reel of film not over 1100 ft. and \$6 per reel of film over 1100 ft., but not over 2000 ft. Copies of films previously approved — \$1.50 per reel Cinematograph machine certificate \$10. Operators \$1 to \$2. Public Halls used for amusement purposes \$1 to \$100. Circuses \$25 to \$200.	Board of Censors.
The Theatres, Cinematographs and Amusements Act, R. S. N. S. 1923 Ch. 22. Am. 1934 Ch. 39.	Amusement Tax . Weekly.	Admission to any entertainment.	Price of Admission.	Theatres 2c to 10c and 10% over \$1 per seat. Other places of amusement 1c to 10c and 10% over \$1 on each admission paid.	Board of Censors.
The Mines Act, R. S. N. S. 1923 Ch. 22. Am. 1933, Ch. 12.	Leases, licenses, royalties and rentals. Annual.	Privilege of prospecting and mining.	Flat rate.	Gold and silver leases —50c an acre on 40 acre claims; prospecting licenses—25c an acre. Annual rentals 50c an acre, minimum \$5 to maximum of \$20. Royalty 35c an oz. (suspended till 1938). Other minerals—leases \$50 and annual rental of \$30 per sq. mile;	Dept. of Public Works and Mines.

Legal citation with amendments to date that affect taxation	Title of Tax with due date of payment	Basis of Tax	Measure of Tax	Rate of Tax	Administration of Tax Assessment Collection
LEVIED BY PROVINCE (Cont'd.)					
The Mines Act (Cont'd.) R. S. N. S. 1923 Ch. 22. Am. 1923, Ch. 39.	Leases, Licenses, royalties and rentals. Annual.	Privilege of Prospect- ing and mining.	Flat rate.	licenses to search, \$10 per sq. mile. Royal- ties—coal 12½c per ton with certain excep- tion; copper, iron, zinc, specific rates; tin, lead, precious stones and other crown minerals, 5% of value.	
Nova Scotia Liquor Control Act. N. S. 1930	Permits to purchase liquor. Annually Sept. 30th.	Supervision and control.	Flat rate and profits from sale of liquor.	Individual permit 25c. Banquet permit \$1. Special permit \$4. Sacramental wine per- mit \$10. Duplicate permit 25c.	Nova Scotia Liquor Commission.
Am. 1937, Ch. 48.	Licenses—Breweries. Annually Sept. 30th. Tax on beer sales.	Privilege of brewing.	Flat rate.	Brewing within N. S. \$1,000. Brewing outside N. S. \$2,000. Brewers' central ware- house—\$200.	
		Privilege of selling.	Gross sales in N. S. 5%		
Collection Agencies Act. R. S. N. S. 1923 Ch. 126.	Registration fees. Annually Dec. 31st.	Privilege of carrying on business as a collector.	Gross yearly income.	\$1 to \$250.	Registrar of Joint Stock Companies.
Costs and Fees Act. R. S. N. S. Ch. 252.	Officials' Fees. Monthly.	Registration of docu- ments, searches and issuance of commis- sion.	Percentage.	1/3 of all fees paid into offices of Prothonotary, County Court Clerk, Registrar of Deeds, Registrar of Probate, Sheriff, for registration of documents and und- er Part I various de- partmental fees.	Provincial Secretary.

Legal citation with amendments to date that affect taxation	Title of Tax with due date of payment	Basis of Tax	Measure of Tax	Rate of Tax	Administration of Tax Assessment Collection
LEVIED BY PROVINCE (Cont'd.)					
Corporation Securities Registration Act, 1933 Ch. 6.		Registration of bonds, mortgages and other securities.	Flat rate.	\$2 to \$5 per document, 30c to 50c for searches.	Registrar of Joint Stock Companies.
Nova Scotia Water Act, R. S. N. S. 1923 Ch. 26.	Rental, Annually.	Use of water of waterways.	Flat rate.	Determined by Order-in-Council.	Nova Scotia Power Commission.
Nova Scotia Power Commission Act, 1928 Ch. 8.	Power Commission, Semi-annually.	Interest on capital moneys advanced by Province.	Horsepower.	Rates at which loans are made, reimbursed from sale of power in one case at a fixed contract rate, and in others at cost annually adjusted.	Power Commission, Minister of Highways, Chairman.
Succession Duties Act, R. S. N. S. 1923 Ch. 18, 1924 Ch. 17, 1929 Ch. 21, 1932 Ch. 21, 1935 Ch. 22, 1936 Ch. 13, 1937 Ch. 16.	Succession Duty, Payable after death. If paid within 18 months from date of death subject to discount. If paid after 18 months from date of death subject to interest.	All estates over \$5000 if not passing in direct line. All estates over \$25,000 if passing in direct line.			Provincial Secretary.

RATES FOR SUCCESSION DUTIES. (Cont'd.)

To whom passing	Amount	Rate %	Surtax %	Exemption
Direct Line, i. e. husband, wife, children, the mother, grandmother, grandfather, son-in-law, and daughter-in-law.	Up to 25,000	2½	1	1. Property passing having an aggregate value of less than \$5,000.
	25,000 to 50,000	3	1	
	50,000-75,000	4	1½	2. Bequests for Religious, Charitable, or Educational purposes in N. S.
	75,000-100,000	5½	2	
	100,000-150,000	6	3	
	150,000-200,000	6½	3½	3. Property passing to an heir in the direct line of blood under \$25,000.
	200,000-300,000	7	4	
	300,000-350,000	7½	4½	
	350,000-400,000	8	5	4. Insurance money payable to an heir in the direct line aggregating less than \$5,000.
	400,000-500,000	8½	5½	
	500,000-600,000	9	6	
	600,000-700,000	9½	6½	
	700,000-750,000	10	7	
	750,000-890,000	11	7½	
	800,000-900,000	12	8	
	900,000-1,000,000	12	8½	
	1,000,000-1,200,000	12	9	
	1,200,000-1,400,000	12	9½	
	1,400,000-1,600,000	12	10	
	1,600,000-1,800,000	12	10½	
	1,800,000-2,000,000	12	11	
	2,000,000-2,200,000	12	11½	
	2,200,000-2,400,000	12	12	
	2,400,000-2,600,000	12	13	
	2,600,000-2,800,000	12	14	
	2,800,000-3,000,000	12	15	
	over 3,000,000	12	15	
Collaterals, i. e., brothers, sisters, uncles, aunts, and descendants of same.	5,000-10,000	5	1	
	10,000-15,000	5½	1½	
	15,000-25,000	6	1½	
	25,000-50,000	7½	2	
	50,000-75,000	10	2½	
	75,000-100,000	11	3	
	100,000-200,000	12½	3½	
	200,000-300,000	13	4	
	300,000-350,000	13½	4½	
	350,000-400,000	13½	5	

Legal citation with amendments to date that affect taxation	Title or Tax with due date of payment	Basis of Tax	Measure of Tax	Rate of Tax	Administration of Tax Assessment Collection
LEVIED BY PROVINCE (Cont d.)					
Public Printing Act, R. S. N. S. 1923 Ch. 10.	Public Printing.	Advertising in Royal Gazette and sale of Public Statutes.	Flat rate.	At fixed rates. Subscription \$1.50 per year. 50c to \$1.00 unbound. \$3 per year bound.	Provincial Secretary as King's Printer.
Lands and Forests Act, 1926, Ch. 4 Part II.	Provincial and Municipal Fire Protection Fund—Annual.	Owners or occupants of timber or uncultivated lands of over 200 acres.	Flat rate.	Fixed at 3 4c an acre by Order-in-Council.	Assessed by Chief Forest Ranger. Payable to Prov. Treas. through Lands and Forests Dept.
Part I.	Crown Lands, Annual.	Grants of land for settlement. Leases of land limited to 20 years. Licenses to cut timber. Oyster leases.		\$1 per acre, Minimum \$25. Varies according to value of stumpage. \$1 per cord cut. \$1 per acre per year.	Attorney General as Minister of Lands and Forests.
Public Charities Acts relating to Victoria General Hospital, R. S. N. S. 1923 Ch. 52.		Daily rate for those not chargeable to Province.	Flat rate.	\$2 per day per patient chargeable to Municipality and Revenue from private patients.	Minister of Public Health.
Nova Scotia Hospital for Insane, R. S. N. S. 1923 Ch. 51.		Daily rate for those not chargeable to Province.	Flat rate.	\$9 per week per patient chargeable to Municipality, \$9 to \$10 per week for private patients, \$8 to \$10 per week for federal charges.	Minister of Public Health.

Legal citation with amendments to date that affect taxation	Title or Tax with due date of payment	Basis of Tax	Measure of Tax	Rate of Tax	Administration of Tax Assessment Collection
LEVIED BY PROVINCE (Cont'd.)					
Nova Scotia Sanatorium, R. S. N. S. 1923 Ch. 56.		Government pays deficit in operation which is approximately 2/3 of cost of every patient, 1/3 being chargeable to patient's maintenance at own cost or that of municipality or province.	Flat rate.	Bedpatients are charged \$10 per week, Walking cases are charged \$7.50 per week, which taken together cover approximately 1/3 cost of maintenance of institution.	Minister of Public Health.
Reformatories, Children's Protection Act, R. S. N. S. 1923 Ch. 166.		Province and Municipality pay flat rate yearly for each commitment.	Flat rate.	\$175 per year.	Minister of Public Health.
Part III, Am. 1927 Ch. 43. Nova Scotia Reformatory For Feeble Minded, Part VI, Am. 1927 Ch. 43.		Maintenance of inmates by Province or Municipality as case may be.	Flat rate.	\$200 per year from Municipality. Balance cost assumed by Province.	Minister of Public Health.
Education, Education Act, R. S. N. S. 1923 Ch. 60.		Students' fees.	Flat rate.	\$15 per pupil teacher in attendance. Summer School.	Superintendent of Education.
Technical Education Act, R. S. N. S. Ch. 61, 1923.		Tuition fees payable by students and supplies furnished.	Flat rate.		Director of Technical Education.
Solemnization of Marriage Act, R. S. N. S. 1923 Ch. 134.		Licenses.	Flat rate.	\$5.00.	Registrar-General.

Legal citation with amendments to date that affect taxation	Title of Tax with due date of payment	Basis of Tax	Measure of Tax	Rate of Tax	Administration of Tax Assessment Collection
LEVIED BY PROVINCE (Cont'd.)					
Public Health Act, R. S. N. S. 1923 Ch. 157.		Supplies of serum and vaccine.	Flat rate.	Furnished free and at cost.	Minister of Public Health.
Vital Statistics Act, R. S. N. S. 1923 Ch. 20.		Certificates.	Flat rate.	25c to \$1.25 for certificates births and deaths.	Registrar-General.
LEVIED BY TOWNS AND MUNICIPALITIES					
Assessment Act, R. S. N. S. 1923 Ch. 86. Am. 1924 Ch. 36. 1929 Ch. 38.	General Tax. School Tax. Poor tax. Poll Tax. Annually.	Real & Personal property and income.	Actual value.	As fixed by town or municipal council after estimates are passed and licenses and other revenues deducted.	Assessed by Town or Municipal Assessor. Paid to Town or Municipal Treasurer.
		Each male person resident in the town or municipality.	Each male person over 20 yrs. of age and under 60.	\$3.00 to \$5.00.	

Legal citation with amendments to date that affect taxation	Title of Tax with due date of payment	Basis of Tax	Measure of Tax	Rate of Tax	Administration of Tax Assessment and Collection
CITY OF HALIFAX					
N. B.—As cities are not governed by the Assessment Act, but by a special Act of Incorporation, the tax schedule of the City of Halifax is submitted as an example.					
Act of Incorporation, 1851. City Charter, 1931, with amendments.	General Property Tax.	Real Estate.	Actual Value.	As fixed by City Council to balance budget.	All taxes collected by City Collector.
	Business Tax.	Real Estate.	50% of assessed value or premises occupied.	As fixed by City Council to balance budget.	Property, Business and Household Taxes assessed by City Assessor.
	Household Tax.	Real Estate.	10% of assessed value of premises occupied.	As fixed by City Council to balance budget.	
	Poll Tax.	Income of persons not otherwise assessed.	Excess of \$600.	\$600 to \$800—\$5. \$800 to \$1500—\$10. \$1500 to \$2000—\$15. Excess of \$2000—\$18.	
LICENSES: Peddlers, foot \$8; hand cart \$12; horse and wagon \$20; coal hawker \$5; Chimney sweep \$5; Bill poster \$25; each employee \$1; Motor hack \$25; Truck Licenses Motor Vehicle \$15 to \$25; Horse-drawn vehicles \$5 to \$7.50; Dog License \$2; Bicycle License \$1; Illuminated signs, 10c per sq. ft., minimum \$5; auctioneer \$80; Junk dealers \$100; Omnibuses \$20; circuses and travelling shows, for use of Commons \$500 per day; Halifax shows \$50 per day; Master Plumbers, initial \$10; and annual, \$1; Master Firemen, initial \$25 and annual \$5; Travelling Photographers \$100; Municipally owned water system-faucet charge and meter rates.					
Legal citation with amendments to date	Provincial	Disposition.	Municipal	Date return or information is due	Date tax is due
Companies Act, 1935 Ch. 6.	All			Prior to incorporation or increase of capital.	Date of incorporation or increase of capital.
Domestic Dominion and Foreign Corporations Act, R. S. N. S. 1923 Ch. 173.	All			January.	January.
Provincial Revenue (Corporations) Act, R. S. N. S. 1923 Ch. 16.	All	Since 1919, municipal tax on company liable to taxation limited to rate or amount fixed prior to 1919.		April 1st.	January 1st payable June 1st.
Corporation Securities Registration Act.	All			Within 60 days of execution.	On registration.

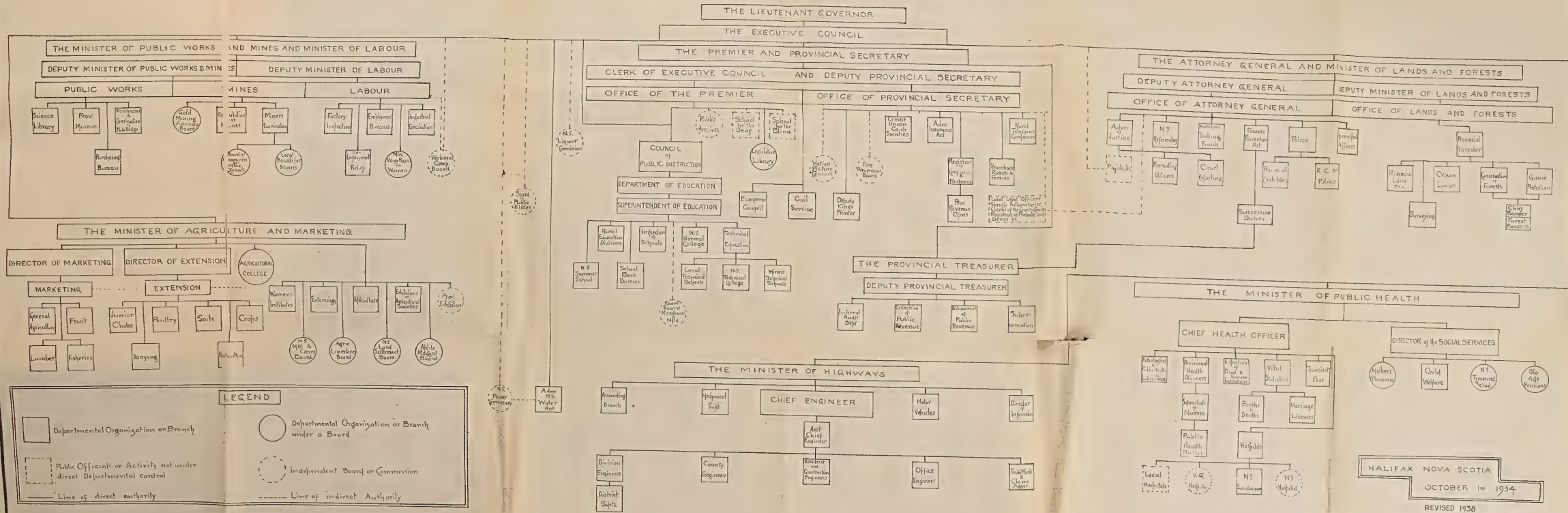
Legal citation with amendments to date	Disposition.		Date return or information is due	Date tax is due
	Provincial	Municipal		
Insurance Agents Act. R. S. N. S. 1923 Ch. 122.	All		October 1st.	October 1st.
Fire Prevention Act. R. S. N. S. 1923 Ch. 154.	All		April 1st.	January 1st payable June 1st
Registration of Partnerships' Act. R. S. N. S. 1923 Ch. 205.	All		January.	January.
The Securities Act. N. S. 1930 Ch. 3.	All		October 31st.	October 31st.
Land Tax Act. R. S. N. S. 1923 Ch. 17.	All		February 15th.	June 1st.
Lands and Forests Act. N. S. 1926.	All		Date of Application.	Date of Application.
The Public Highways Act. R. S. N. S. 1923 Ch. 75.	All All			Towns—June 30th. Municipalities—Aug. 31st.
Motor Carriers Act. R. S. N. S. 1923 Ch. 78.	All		10th of each month.	15th of each month.
Motor Vehicle Act. R. S. N. S. 1923 Ch. 76.	All		March 31st.	March 31st.
Gasoline Licensing Act. N. S. 1934 Ch. 2.	All		December 1st.	December 1st.
Fuel Oil Tax Act. (not proclaimed) N. S. 1934 Ch. 3.	All		To be determined.	To be determined.
Gasoline Tax Act. N. S. 1926.	All		12th of each month.	12th of each month.
The Theatres Cinematographs and Amusements Act. R. S. N. S. 1923 Ch. 162.	All		Licenses—Sept. 30th. Amusement Tax—Weekly.	September 30th. Weekly.

Legal citation with amendments to date	Disposition.		Date return or information is due	Date tax is due
	Provincial	Municipal.		
The Mines Act. R. S. N. S. 1923 Ch. 22.	All		July 2nd.	
The N. S. Liquor Control Act. N. S. Ch. 2 1930.	All		Royalties quarterly. September 30th.	
Collecting Agencies Act. R. S. N. S. 1923 Ch. 126.	All		January 10th.	
Costs and Fees Act. R. S. N. S. 1923 Ch. 252.	All		1st of month.	
The Nova Scotia Water Act. R. S. N. S. 1923 Ch. 26.	All		October 1st.	
Nova Scotia Power Commission Act. N. S. 1928 Ch. 3.	All		March 31st-Sept. 30th.	
The Assessment Act. R. S. N. S. 1923 Ch. 86.		All		Date set by Council.
Public Printing Act. R. S. N. S. 1923 Ch. 10.	All			Cash on insertion.
Education Act. R. S. N. S. 1923 Ch. 60.	All			On registration.
Technical Education Act. R. S. N. S. 1923 Ch. 61.	All			On registration.
Public Health Act. R. S. N. S. 1923 Ch. 157.	All			On application.
Solemnization of Marriage Act. R. S. N. S. 1923 Ch. 134.	All			On application.
Vital Statistics Act. R. S. N. S. 1923 Ch. 20.	All			On application.

CITY OF HALIFAX Cont'd.

Legal citation with amendments to date	Disposition		Date return or information is due	Date tax is due
	Provincial	Municipal		
Acadia General Hospital R. S. N. S. 1923 Ch. 52.	All		Patients—Weekly. Municipalities—Monthly.	Patients—Weekly. Municipalities—Monthly.
Acadia Sanatorium Hospital for Insane R. S. N. S. 1923 Ch. 51.	All		Monthly.	Monthly.
Nova Scotia Sanatorium. R. S. N. S. 1923 Ch. 56.	All		Monthly.	Monthly.
Children's Protection Act. R. S. N. S. 1923 Ch. 166.	All		Quarterly.	Quarterly ending September 30th

ORGANIZATION CHART OF THE PROVINCE OF NOVA SCOTIA



OCTOBER 1st 1934

R. MacG. Dawson



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